# Appendix A **Regulatory Background**

## **Regulatory Background**

This appendix provides regulatory background for the project in terms of Federal, state, and local laws, ordinances, regulations, and planning guidance. This regulatory background indicates approvals that may be required for implementation of the project or contextual information to be considered in environmental analysis. Table A-1 presents a list of acronyms and abbreviations found in this appendix.

#### Table A-1. List of Acronyms and Abbreviations

AB Assembly Bill

ACHP Advisory Council on Historic Preservation

AG California Attorney General

Alquist-Priolo Act Alquist-Priolo Earthquake Fault Zoning Act

APE area of potential effects

ARB California Air Resources Board

ARPA Archaeological Resources Protection Act

basin plan water quality control plan

BCAQMD Butte County Air Quality Management District

BMP best management practice

Butte County FMP Butte County Flood Mitigation Plan

Butte County MHMP

Butte County Multi-Jurisdictional All-Hazard Pre-Disaster Mitigation Plan

Butte Regional HCP/NCCP

Butte Regional Habitat Conservation Plan/Natural Community Conservation Plan

CAA Clean Air Act

CAFE Corporate Average Fuel Economy

Cal/EPA California Environmental Protection Agency
Caltrans California Department of Transportation

CAPCOA California Air Pollution Control Officers Association

Carl Moyer Program Carl Moyer Memorial Air Quality Standards Attainment Program

CBSC California Building Standards Code
CCA Community Choice Aggregation
CCR California Code of Regulations

CDFW California Department of Fish and Wildlife

CEQ Council on Environmental Quality
CEQA California Environmental Quality Act

CERCLA or Superfund Comprehensive Environmental Response, Compensation, and Liability Act

CESA California Endangered Species Act

CFR Code of Federal Regulations
CGS California Geological Survey
CNEL community noise equivalent level

CO carbon monoxide

CO<sub>2</sub>e carbon dioxide equivalent

CRHR California Register of Historical Resources

CTR California Toxics Rule

CVFPB Central Valley Flood Protection Board
CVFPP Central Valley Flood Protection Plan

CWA Federal Clean Water Act dbh diameter at breast height

DO dissolved oxygen

DWR California Department of Water Resources

EFH essential fish habitat

EIR environmental impact report

EPA U.S. Environmental Protection Agency
ESA Federal Endangered Species Act

ESP energy service provider
ETL Engineer Technical Letter

FEMA Federal Emergency Management Agency

FIS Flood Insurance Studies

FRAQMD Feather River Air Quality Management District

FRWLP Feather River West Levee Project

GC Government Code

General Dewatering Order General Order for Dewatering and Other Low Threat Discharges to Surface Waters

GHG greenhouse gas

HCP habitat conservation plan

ICLEI International Council of Local Environmental Initiatives

ICW Inspection of Completed Works

 $\begin{array}{lll} IOU & investor\text{-owned utility} \\ ISR & Indirect Source Review \\ LCFS & low carbon fuel standard \\ L_{dn} & day\text{-night average sound level} \\ \end{array}$ 

LGOP Local Government Operations Protocol

LOS level of service

MBTA Migratory Bird Treaty Act
MOA memorandum of agreement

mpg miles per gallon

MPO metropolitan planning organization

MRZ Mineral Resource Zone

MS4 Municipal Separate Storm Sewer Systems

MS4 Permit National Pollutant Discharge Elimination System General Permit for Municipal

Separate Storm Sewer Systems

MT metric ton MW megawatt

NAGPRA Native American Graves Protection and Repatriation Act

NAHC Native American Heritage Commission NCCP natural community conservation plan

NCCPA Natural Community Conservation Planning Act

NEPA National Environmental Policy Act

NFIP National Flood Insurance Program
NHPA National Historic Preservation Act
NISC National Invasive Species Council
NMFS National Marine Fisheries Service

 $egin{array}{ll} NOI & & notice of intent \\ NO_X & oxides of nitrogen \\ \end{array}$ 

NPDES National Pollutant Discharge Elimination System

NRHP National Register of Historic Places

NTR National Toxics Rule
OHWM ordinary high water mark

OPR Office of Planning and Research

PA programmatic agreement

PL Public Law
PM particulate matter

Porter-Cologne Water Quality Control Act of 1969

PPMP pollution prevention and monitoring program

PRC Public Resources Code ROG reactive organic gas

RPS California's Renewable Portfolio Standard

RTP regional transportation plan

RWQCB regional water quality control board
SACOG Sacramento Area Council of Governments
SAFCA Sacramento Area Flood Control Agency

SB Senate Bill

SBFCA Sutter Butte Flood Control Agency
SCS sustainable communities strategy
SHPO State Historic Preservation Officer

SIP state implementation plan

SMARA Surface Mining and Reclamation Act of 1975

SOI sphere of influence

SR State Route

State Water Board State Water Resources Control Board

SWMP stormwater management plan

SWPPP stormwater pollution prevention plan

TAC toxic air contaminant

TMDL Total Maximum Daily Load
ULDC Urban Levee Design Criteria

Uniform Act Uniform Relocation Assistance and Real Property Acquisition Policies Act of

1970, as amended in 1987 (42 USC 4601 et seq.)

USACE U.S. Army Corps of Engineers

USC U.S. Government Code

USFWS U.S. Fish and Wildlife Service

VMT vehicle miles traveled
WDR waste discharge requirement

## A.1 Federal Plans, Policies, and Regulations

### A.1.1 National Environmental Policy Act

The National Environmental Policy Act (NEPA) is the nation's broadest environmental law, applying to all Federal agencies and most of the activities they manage, regulate, or fund that have the potential to affect the environment. It requires Federal agencies to disclose and consider the environmental implications of their proposed actions. NEPA establishes environmental policies for the nation, provides an interdisciplinary framework for Federal agencies to prevent environmental damage, and contains action-forcing procedures to ensure that Federal agency decision makers take environmental factors into account.

NEPA requires the preparation of an appropriate document to ensure that Federal agencies accomplish the law's purposes. The Council on Environmental Quality (CEQ) has adopted regulations and other guidance that provide detailed procedures that Federal agencies must follow to implement NEPA.

This document is the instrument for NEPA compliance for the project under U.S. Army Corps of Engineers' (USACE's) authority, as described in Chapter 1, *Introduction*.

### A.1.2 Federal Endangered Species Act

Section 7 of the Federal Endangered Species Act (ESA) requires Federal agencies, in consultation with the U.S. Fish and Wildlife Service (USFWS) and/or the National Marine Fisheries Service (NMFS), to ensure that their actions do not jeopardize the continued existence of endangered or threatened species, or result in the destruction or adverse modification of the critical habitat of these species. The required steps in the Section 7 consultation process are as follows.

- Agencies must request information from USFWS and/or NMFS on the existence in a project area
  of special-status species or species proposed for listing.
- Agencies must initiate formal consultation with USFWS and/or NMFS if the proposed action may adversely affect special-status species.

The project may affect special-status species. USACE and the Sutter Butte Flood Control Agency (SBFCA) are in coordination with USFWS and NMFS to initiate consultation under Section 7.

## A.1.3 Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) implements a series of international treaties that provide for migratory bird protection. The MBTA authorizes the Secretary of the Interior to regulate the taking of migratory birds; the act provides that it is unlawful, except as permitted by regulations, "to pursue, take, or kill any migratory bird, or any part, nest or egg of any such bird..." (16 U.S. Government Code [USC] 703). This prohibition includes both direct and indirect acts, although harassment and habitat modification are not included unless they result in direct loss of birds, nests, or eggs. The current list of species protected by the MBTA includes several hundred species and essentially includes all native birds. Permits for take of non-game migratory birds can be issued only

for specific activities, such as scientific collecting, rehabilitation, propagation, education, taxidermy, and protection of human health and safety and personal property.

Compliance with the MBTA would be addressed through compliance with the ESA and California Endangered Species Act (CESA). The project would incorporate mitigation measures that would help ensure that construction activities do not result in the take of migratory birds, as discussed in Section 3.9, *Wildlife*.

### A.1.4 Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act provides for the protection of the bald eagle and the golden eagle by prohibiting, except under certain specified conditions, the take, possession, and commerce of such birds.

The project area does not contain bald eagle or golden eagle nesting habitat, and the project would not result in the take of bald or golden eagles. The project incorporates mitigation measures that would ensure that construction activities do not result in the take of any raptors, as discussed in Section 3.9, *Wildlife*.

### A.1.5 Clean Water Act

The Federal Clean Water Act (CWA) is the primary Federal law that protects the quality of the nation's surface waters, including lakes, rivers, and coastal wetlands. It operates on the principle that all discharges into the nation's waters are unlawful unless specifically authorized by a permit. Permit review is the CWA's primary regulatory tool. The following sections provide additional details on specific sections of the CWA.

#### Section 303

California adopts water quality standards to protect beneficial uses of state waters as required by CWA Section 303 and the Porter-Cologne Water Quality Control Act of 1969 (Porter-Cologne Act) (see Section A.2.7). Section 303(d) of the CWA requires the identification of water bodies that do not meet, or are not expected to meet, water quality standards (i.e., impaired water bodies). In California, the State Water Resources Control Board (State Water Board) develops the list of water quality-limited segments and the U.S. Environmental Protection Agency (EPA) approves the state's list. The affected water body, and associated pollutant or stressor, is then prioritized in the 303(d) List. Section 303(d) also requires the development of a Total Maximum Daily Load (TMDL) for each listing. The current list, approved by the EPA, is the 2006 303(d) List.

In addition to the impaired water body list required by CWA Section 303(d), CWA section 305(b) requires states to develop a report assessing statewide surface water quality. Both CWA requirements are being addressed through the development of a 303(d)/305(b) Integrated Report, which will address both an update to the 303(d) list and a 305(b) assessment of statewide water quality. The State Water Board developed a statewide 2010 California Integrated Report based upon the Integrated Reports from each of the nine regional water quality control boards (RWQCBs). The 2010 California Integrated Report was approved by the State Water Board at a public hearing on August 4, 2010, and the report was submitted to the EPA for final approval. Although updates to the 303(d) list must be finalized by the EPA before becoming effective, this updated 303(d) list will be used for this analysis in order to have the most up-to-date information available.

#### Section 401

Under the CWA Section 401, applicants for a Federal license or permit to conduct activities that may result in the discharge of a pollutant into waters of the United States must obtain certification from the state in which the discharge would originate or, if appropriate, from the interstate water pollution control agency with jurisdiction over affected waters at the point where the discharge would originate. Therefore, all projects that have a Federal component and may affect state water quality (including projects that require Federal agency approval [such as issuance of a Section 404 permit]) must also comply with CWA Section 401. In California, the authority to grant water quality certification has been delegated to the State Water Board, and applications for water quality certification under CWA Section 401 are typically processed by the RWQCB with local jurisdiction. Water quality certification requires evaluation of potential impacts in light of water quality standards and CWA Section 404 criteria governing discharge of dredged and fill materials into waters of the United States.

The Feather River West Levee Project (FRWLP) is subject to CWA Section 401 certification as a condition of USACE's authority under the CWA Section 404.

#### Section 402

CWA Section 402 regulates discharges to surface waters through the National Pollutant Discharge Elimination System (NPDES) program, administered by EPA. In California, the State Water Board is authorized by EPA to oversee the NPDES program through the RWQCBs (see related discussion regarding the Porter-Cologne Act under state regulations, Section A.2.7). The NPDES program provides for both general permits (those that cover a number of similar or related activities) and individual permits.

#### **Construction General Permit**

Dischargers whose projects disturb 1 or more acres of soil or whose projects disturb less than 1 acre but are part of a larger common plan of development that in total disturbs 1 or more acres are required to file a notice of intent (NOI) to obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (General Order No. 2010-0014-DWQ—General Permit). Construction activities subject to this permit include clearing, grading, and disturbances to the ground such as stockpiling or excavation, but do not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

The Construction General Permit requires the preparation and implementation of a stormwater pollution prevention plan (SWPPP), which must be completed before construction begins. The SWPPP should contain a site map that shows the construction site perimeter; existing and proposed buildings, lots, roadways, and stormwater collection and discharge points; general topography both before and after construction; and drainage patterns across the project. The SWPPP must list best management practices (BMPs) the discharger will use to protect stormwater runoff and the placement of those BMPs. Additionally, the SWPPP must contain a visual monitoring program; a chemical monitoring program for non-visible pollutants to be implemented if there is a failure of BMPs; and a sediment monitoring plan if the site discharges directly to a water body listed on the 303(d) list for sediment. Section A (or Section XIV) of the Construction General Permit describes the elements that must be contained in a SWPPP.

### **Municipal Activities**

CWA Section 402 mandates permits for municipal stormwater discharges, which are regulated under the NPDES General Permit for Municipal Separate Storm Sewer Systems (MS4) (MS4 Permit). Phase 1 MS4 regulations cover municipalities with populations greater than 100,000, certain industrial processes, or construction activities disturbing an area of 5 acres or more. Phase 2 MS4 regulations require that stormwater management plans be developed by municipalities with populations smaller than 100,000 and construction activities disturbing 1 or more acres of land area.

Several of the cities and counties within the affected area have their own NPDES municipal stormwater permits for the regulation of stormwater discharges. Yuba City and Sutter County (joint program) as well as Butte County are permit holders under the general Phase 2 MS4 Permit (Order No. 2003-0005-DWQ) in the affected area. These permits require that controls are implemented to reduce the discharge of pollutants in stormwater discharges to the maximum extent possible, including management practices, control techniques, system design and engineering methods, and other measures as appropriate. As part of permit compliance, these permit holders have created stormwater management plans for their respective locations. These plans outline the requirements for municipal operations, industrial and commercial businesses, construction sites, and planning and land development. These requirements may include multiple measures to control pollutants in stormwater discharge. During implementation of specific projects, project applicants would be required to follow the guidance contained in the stormwater management plans as defined by the permit holder in that location.

#### **General Dewatering Permit**

Although small amounts of construction-related dewatering are covered under the Construction General Permit, the Central Valley RWQCB has also adopted a General Order for Dewatering and Other Low-Threat Discharges to Surface Waters for which a permit is required (General Dewatering Permit). This permit applies to various categories of dewatering activities if construction required dewatering in greater quantities than that allowed by the Construction General Permit and the effluent is discharged to surface waters. The General Dewatering Permit contains waste discharge limitations and prohibitions similar to those in the Construction General Permit. To obtain coverage, the applicant must submit an NOI and pollution prevention and monitoring program (PPMP) to the Central Valley RWQCB. The PPMP must include a description of the discharge location, discharge characteristics, primary pollutants, receiving water, treatment systems, spill prevention plans, and other measures necessary to comply with discharge limits. A representative sampling and analysis program must be prepared as part of the PPMP and implemented by the permittee, along with recordkeeping and quarterly reporting requirements during dewatering activities.

#### Municipal Separate Storm Sewer System Program (MS4s)

EPA defines an MS4 as any conveyance or system of conveyances (roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels, and storm drains) owned or operated by a state, city, town, county, or other public body having jurisdiction over stormwater, that is designed or used for collecting or conveying stormwater. As part of the NPDES program, EPA initiated a program requiring that entities having MS4s apply to their local RWQCBs for stormwater discharge permits. The program proceeded through two phases. Under Phase I, the program initiated permit requirements for designated municipalities with populations of 100,000 or more to obtain NPDES permit coverage for their stormwater discharges. Phase II expanded the

program to municipalities with populations less than 100,000, as well as small MS4s outside the urbanized areas that are designated by the permitting authority to obtain NPDES permit coverage for their stormwater discharges.

Generally, Phase I MS4s are covered by individual permits and Phase II MS4s are covered by a general permit. Each regulated MS4 is required to develop and implement a stormwater management program to reduce the contamination of stormwater runoff and prohibit illicit discharges.

#### Section 404

Section 404 of the CWA requires that a permit be obtained from USACE for the discharge of dredged or fill material into "waters of the United States, including wetlands."

*Waters of the United States* include wetlands and lakes, rivers, streams, and their tributaries. *Wetlands* are defined for regulatory purposes, at 33 Code of Federal Regulations (CFR) § 328.3 as:

(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of tide; (2) All interstate waters, including interstate wetlands; (3) All other waters such as intrastate lakes, rivers, streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce; (4) All impoundments of waters otherwise defined as waters of the United States under the definition; (5) Tributaries of waters identified in paragraphs 1–4 in this section; (6) The territorial seas; and (7) Wetlands adjacent to waters identified in paragraphs 1–6 in this section.

CWA Section 404(b) requires that USACE process permits in compliance with guidelines developed by EPA. These guidelines (404[b][1] Guidelines) require that there be an analysis of alternatives available to meet the project purpose and need, including those that avoid and minimize discharges of dredged or fill materials in waters. Once this first test has been satisfied, the project that is permitted must be the least environmentally damaging practicable alternative before USACE may issue a permit for the proposed activity.

Before any actions that may affect surface waters are implemented, a delineation of jurisdictional waters of the United States must be completed following USACE protocols to determine whether the affected area contains wetlands or other waters of the United States that qualify for CWA protection. These areas include:

- Sections within the ordinary high water mark (OHWM) of a stream, including non-perennial streams with a defined bed and bank and any stream channel that conveys natural runoff, even if it has been realigned.
- Seasonal and perennial wetlands, including coastal wetlands.

[Note: Section 404 does not apply to authorities under the Rivers and Harbors Appropriation Act of 1899, except that some of the same waters may be regulated under both statutes; the USACE typically combines the permit requirements of Section 10 and Section 404 into one permitting process.]

### A.1.6 River and Harbors Appropriation Act of 1899

The River and Harbors Appropriation Act of 1899 addresses activities that involve the construction of dams, bridges, dikes, and other structures across any navigable water, or that place obstructions to navigation outside established Federal lines and excavate from or deposit material in such waters.

Such activities require permits from USACE. *Navigable waters* are defined in Section 329.4 of the act as:

Those waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the water body, and is not extinguished by later actions or events which impede or destroy navigable capacity.

### Section 9

Section 9 (33 USC 401) prohibits the construction of any bridge, dam, dike, or causeway across any navigable water of the United States in the absence of congressional consent and approval of the plans by the Chief of Engineers and the Secretary of the Army. Where the navigable portions of the water body lie wholly within the limits of a single state, the structure may be built under authority of the legislature of that state, if the location and plans or any modification thereof are approved by the Chief of Engineers and by the Secretary of the Army.

### Section 10

Section 10 (33 USC 403) prohibits the unauthorized obstruction or alteration of any navigable water of the United States. This section provides that the construction of any structure in or over any navigable water of the United States, or the accomplishment of any other work affecting the course, location, condition, or physical capacity of such waters, is unlawful unless the work has been authorized by the Chief of Engineers.

#### Section 13

Section 13 (33 USC 407) provides that the Secretary of the Army, whenever the Chief of Engineers determines that anchorage and navigation would not be injured thereby, may permit the discharge of refuse into navigable waters. In the absence of a permit, such discharge of refuse is prohibited. While the prohibition of this section, known as the Refuse Act, is still in effect, the permit authority of the Secretary of the Army has been superseded by the permit authority provided the Administrator, EPA, and the states under Sections 402 and 405 of the CWA, respectively.

As described above, the proposed project may affect waters of the United States under Section 404 and navigable waters under the Rivers and Harbors Appropriation Act of 1899. Consultation with USACE is in progress.

### Section 14

Under Section 14 (33 USC 408) temporary or permanent alteration, occupation, or use of any public works, including levees, for any purpose is only allowable with the permission of the Secretary of the Army. Under the terms of 33 USC 408, any proposed levee modification requires a determination by the Secretary that the proposed alteration, permanent occupation, or use of a Federal project is not injurious to the public interest and will not impair the usefulness of the levee. The authority to make this determination and approve modifications to Federal works under 33 USC 408 has been delegated to the Chief of Engineers, USACE. Minor modifications to flood control facilities have been further delegated via Section 208 (33 CFR 208.10) to the District Engineer.

### Section 208 (33 CFR 208.10)

While not technically part of the Rivers and Harbors Act, as introduced above, Section 208 (33 CFR 208.10) authorizes the USACE District Engineer to approve relatively minor, low impact alterations/modifications related to the operation and maintenance responsibilities of the non-Federal sponsors, provided these alterations and modifications do not adversely affect the functioning of the project and flood fighting activities. The project is considered to fall under Section 408, as described in the preceding paragraph, the process for which includes and goes beyond the Section 208 District Engineer level to the Chief of Engineers.

## A.1.7 Magnuson-Stevens Fishery Conservation and Management Act

The Magnuson-Stevens Act establishes a management system for national marine and estuarine fishery resources. This legislation requires that all Federal agencies consult with NMFS regarding all actions or proposed actions permitted, funded, or undertaken that may adversely affect essential fish habitat (EFH). EFH is defined as "waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The legislation states that migratory routes to and from anadromous fish spawning grounds are considered EFH. The phrase *adversely affect* refers to the creation of any effect that reduces the quality or quantity of essential fish habitat. Federal activities that occur outside of an essential fish habitat but that may, nonetheless, have an effect on essential fish habitat waters and substrate must also be considered in the consultation process.

Under the Magnuson-Stevens Act, effects on habitat managed under the Pacific Salmon Fishery Management Plan must also be considered. The Magnuson-Stevens Act states that consultation regarding essential fish habitat should be consolidated, where appropriate, with the interagency consultation, coordination, and environmental review procedures required by other Federal statutes, such as NEPA, Fish and Wildlife Coordination Act, CWA, and ESA. EFH consultation requirements can be satisfied through concurrent environmental compliance if the lead agency provides NMFS with timely notification of actions that may adversely affect EFH and if the notification meets requirements for essential fish habitat assessments.

USACE and NMFS are in coordination to determine the EFH compliance documentation appropriate for the FRWLP.

### A.1.8 Fish and Wildlife Coordination Act

The Fish and Wildlife Coordination Act in general requires Federal agencies to coordinate with USFWS, NMFS, and state fish and game agencies whenever streams or bodies of water are controlled or modified. This coordination is intended both to promote the conservation of wildlife resources by providing equal consideration for fish and wildlife in water project planning and to provide for the development and improvement of wildlife resources in connection with water projects. Federal agencies undertaking water projects are required to include recommendations made by USFWS and state fish and game agencies in project reports, and give full consideration to these recommendations.

USACE and SBFCA are in coordination with the resource agencies in accordance with the act.

## A.1.9 Farmland Protection Policy Act and Memoranda on Farmland Preservation

Two policies require Federal agencies to include assessments of the potential effects of a proposed project on prime and unique farmland. These policies are the Farmland Protection Policy Act and the Memoranda on Farmland Preservation, dated August 30, 1976, and August 11, 1980, respectively, from the CEQ. Under requirements set forth in these policies, Federal agencies must determine these effects before taking any action that could result in converting designated prime or unique farmland for non-agricultural purposes. If implementing a project would adversely affect farmland preservation, the agencies must consider alternative actions to lessen those effects. Federal agencies also must ensure that their programs, to the extent feasible, are compatible with state, local, and private programs to protect farmland. The Natural Resources Conservation Service is the Federal agency responsible for ensuring that these laws and policies are followed.

The project may affect farmland adjacent to the levee, as discussed in Section 3.11, *Agriculture, Land Use, and Socioeconomics*.

### A.1.10 National Historic Preservation Act

Section 106 of the National Historic Preservation Act (NHPA) requires Federal agencies to evaluate the effects of their undertakings on historic properties, which are those properties listed or eligible for listing on the National Register of Historic Places (NRHP). Implementing regulations at 36 CFR Part 800 require that Federal agencies, in consultation with the State Historic Preservation Officer (SHPO), identify historic properties within the area of potential effects (APE) of the proposed project and make an assessment of adverse effects if any are identified. If the project is determined to have an adverse effect on historic properties, the Federal agency is required to consult further with SHPO and the Advisory Council on Historic Preservation (ACHP) to develop methods to resolve the adverse effects. The Section 106 process has five basic steps.

- 1. Initiate the Section 106 process, including the identification of consulting parties, such as Native American tribes.
- 2. Identify and evaluate cultural resources to determine whether they are historic properties.
- 3. Assess the effects of the undertaking on historic properties within the APE.
- 4. If historic properties may be subject to an adverse effect, the Federal agency, the SHPO, and any other consulting parties (including Native American tribes and the ACHP) continue consultation to seek ways to avoid, minimize, or mitigate the adverse effect. A memorandum of agreement (MOA) is usually developed to document the measures agreed upon to resolve adverse effects. Alternatively, the Federal agency may prepare and execute a programmatic agreement (PA) with the aforementioned parties to comply with 36 CFR 800, particularly in the context of complex undertakings that entail years of implementation actions or where the undertaking's effects on historic properties cannot be well characterized during the planning phase.
- 5. Proceed in accordance with the terms of the MOA or PA.

The efforts taken to identify cultural resources within the APE and any potential effects are discussed in Section 3.17, *Cultural Resources*. Consultation with SHPO is in progress.

### A.1.11 American Indian Religious Freedom Act

The American Indian Religious Freedom Act of 1978 is also applicable to Federal undertakings. This act established "the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites" (Public Law 95-431).

It is not anticipated that actions related to the project would conflict with the American Indian Religious Freedom Act. Consultation with the Native American Heritage Commission and the Sacred Lands database was negative for findings in the project areas, which is discussed in Section 3.17, *Cultural Resources*.

### A.1.12 Wild and Scenic Rivers Act

The Wild and Scenic Rivers Act (16 USC 1271 et seq.) establishes a National Wild and Scenic Rivers System for the protection of rivers with important scenic, recreational, fish and wildlife, and other values. Rivers are classified as wild, scenic, or recreational. The act designates specific rivers for inclusion in the System and prescribes the methods and standards by which additional rivers may be added. The Feather River in the project area is not designated under this act.

### A.1.13 Executive Order 11988 (Floodplain Management)

Executive Order 11988 (May 24, 1977) requires a Federal agency, when taking an action, to avoid short- and long-term adverse effects associated with the occupancy and the modification of a floodplain, and it must avoid direct and indirect support of floodplain development whenever there is a reasonable and feasible alternative. If the only reasonable and feasible alternative involves siting in a floodplain, the agency must minimize potential harm to or in the floodplain and explain why the action is proposed in the floodplain.

## A.1.14 Executive Order 11990 (Protection of Wetlands)

Executive Order 11990 (May 24, 1977) requires Federal agencies to prepare wetland assessments for proposed actions located in or affecting wetlands. Agencies must avoid undertaking new construction in wetlands unless no practicable alternative is available and the proposed action includes all practicable measures to minimize harm to wetlands. Section 3.8, *Vegetation*, describes effects on wetlands and mitigation measures for reducing significant effects for the project.

## A.1.15 Executive Order 12898 (Environmental Justice)

Executive Order 12898 (February 11, 1994) requires Federal agencies to identify and address adverse human health or environmental effects of Federal programs, policies, and activities that could be disproportionately high on minority and low-income populations. Federal agencies must ensure that Federal programs or activities do not directly or indirectly result in discrimination on the basis of race, color, or national origin. Federal agencies must provide opportunities for input into the NEPA process by affected communities and must evaluate the potentially significant and adverse environmental effects of proposed actions on minority and low-income communities during environmental document preparation. Even if a proposed Federal project would not result in

significant adverse effects on minority and low-income populations, the environmental document must describe how Executive Order 12898 was addressed during the NEPA process.

Environmental justice issues are discussed in Section 3.12, *Population, Housing, and Environmental Justice*.

## A.1.16 Executive Order 13007 (Indian Sacred Sites) and April 29, 1994, Executive Memorandum

Executive Order 13007 (May 24, 1996) requires Federal agencies with land management responsibilities to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies are to maintain the confidentiality of sacred sites. Among other things, Federal agencies must provide reasonable notice of proposed actions or land management policies that may restrict future access to or ceremonial use of, or adversely affect the physical integrity of, sacred sites. The agencies must comply with the April 29, 1994, Executive Memorandum, *Government-to-Government Relations with Native American Tribal Governments*.

Based on the analysis described in Section 3.17, *Cultural Resources*, no sacred sites would be significantly affected by the implementation of the project.

### A.1.17 Federal Clean Air Act

The Federal Clean Air Act (CAA) was enacted to protect and enhance the nation's air quality in order to promote public health and welfare and the productive capacity of the nation's population. The CAA requires an evaluation of any Federal action to determine its potential effects on air quality in the project region. California has a corresponding law, which also must be considered during the environmental impact report (EIR) process.

For specific projects, Federal agencies must coordinate with the appropriate air quality management district as well as with EPA. This coordination would determine whether the project conforms to the CAA and the state implementation plan (SIP).

Section 176 of the CAA prohibits Federal agencies from engaging in or supporting in any way an action or activity that does not conform to an applicable SIP. Actions and activities must conform to a SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards and in attaining those standards expeditiously. EPA promulgated conformity regulations (codified in 40 CFR 93.150 et seq.).

The potential air quality effects of the project resulting from construction (such as equipment emissions and fugitive dust) are discussed in Section 3.5, *Air Quality*, which analyzes and documents compliance with the CAA.

## A.1.18 Federal Water Project Recreation Act

The Federal Water Project Recreation Act requires Federal agencies with authority to approve water projects to include recreation development as a condition of approving permits. Recreation development must be considered along with any navigation, flood control, reclamation, hydroelectric, or multi-purpose water resource project. The act states that,

consideration should be given to opportunities for outdoor recreation and fish and wildlife enhancement whenever any such project can reasonably serve either or both purposes consistently.

Recreation effects, such as temporary loss to river access, are described in Section 3.14, Recreation.

## A.1.19 Resource Conservation and Recovery Act

The Federal Resource Conservation and Recovery Act enables EPA to administer a regulatory program that extends from the manufacture of hazardous materials to their disposal, thus regulating the generation, transportation, treatment, storage, and disposal of hazardous waste at all facilities and sites in the nation.

No materials classified as hazardous are proposed to be used for the project.

## A.1.20 Comprehensive Environmental Response, Compensation, and Liability Act

The Comprehensive Environmental Response, Compensation, and Liability Act (also known as CERCLA or Superfund) was passed to facilitate the cleanup of the nation's toxic waste sites. In 1986, the act was amended by the Superfund Amendment and Reauthorization Act Title III (community right-to-know laws). Title III states that past and present owners of land contaminated with hazardous substances can be held liable for the entire cost of the cleanup, even if the material was dumped illegally when the property was under different ownership.

Hazardous waste sites are discussed in Section 3.16, Public Health and Environmental Hazards.

## A.1.21 Wildlife Hazards on or Near Airports

The Federal Aviation Administration addresses control of hazardous wildlife in Advisory Circular 150/5200-33B, *Hazardous Wildlife Attractants on or near Airports*. The Federal Aviation Administration provides direction on where public-use airports should restrict land uses that have the potential to attract hazardous wildlife. The Federal Aviation Administration recommends a distance of 10,000 feet separating wildlife attractants and aircraft movement areas. The area within a 10,000-foot radius of the Airport Operations Area is designated as the Critical Zone. The definition of wildlife attractants in Advisory Circular 150/5200-33A includes human-made or natural areas, such as poorly drained areas, retention ponds, agricultural activities, and wetlands. Advisory Circular 150/5200-33A recommends against the use of airport property for agricultural production within a 5-mile radius of the Airport Operations Area unless the income from the agricultural crops is necessary for the economic viability of the airport.

### A.1.22 Sustainable Fisheries Act

In response to growing concern about the status of United States fisheries, Congress passed the Sustainable Fisheries Act of 1996 (Public Law [PL] 104-297) to amend the Magnuson-Stevens Fishery Conservation and Management Act (PL 94-265), the primary law governing marine fisheries management in the Federal waters of the United States. Under the Sustainable Fisheries Act, consultation is required by NMFS on any activity that might adversely affect EFH. EFH includes those habitats that fish rely on throughout their life cycles. It encompasses habitats necessary to allow sufficient production of commercially valuable aquatic species to support a long-term

sustainable fishery and contribute to a healthy ecosystem. The Feather River has been designated as EFH by the Pacific Fishery Management Council. As described in Section A.1.2, *Federal Endangered Species Act*, USACE and SBFCA are in coordination with USFWS and NMFS and consultation would be initiated under Section 7 with publication of the Draft EIS/EIR. That process would include consideration of and compliance with the Magnuson-Stevens Act to determine effects on EFH. At this time, it is considered that no EFH would be affected.

## A.1.23 Uniform Relocation Assistance and Real Property Acquisition Policies Act

All or portions of parcels within the project footprint may need to be acquired to construct either of the action alternatives. Federal, state, local government agencies, and others receiving Federal financial assistance for public programs and projects that require the acquisition of real property must comply with the policies and provisions set forth in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended in 1987 (42 USC 4601 et seq.) (Uniform Act), and implementing regulation, Title 49 CFR Part 24. Relocation advisory services, moving costs reimbursement, replacement housing, and reimbursement for related expenses and rights of appeal are provided for in the Uniform Act.

If necessary, property acquisition and relocation services, compensation for living expenses for temporarily relocated residents, and negotiations regarding any compensation for temporary loss of business would be accomplished in accordance with the Uniform Act and California Government Code Section 7267 et seq.

## A.1.24 Code of Federal Regulations, Title 40, Part 131, Water Quality Standards

This regulation establishes requirements for water quality, including activities related to in-channel construction, dredging, and long-term effects resulting in sediment transport and scouring.

### A.1.25 USACE Levee Safety Program

The USACE Rehabilitation and Inspection Program provides for rehabilitation and/or repair of Public Law 84-99 eligible (active status) levees that are damaged during flood events. This authority covers post flood repair of both Federally authorized and/or constructed and non-Federally constructed flood control works. Inspections of Federal levees are funded and conducted under the Inspection of Completed Works (ICW) program. Inspection of non-Federal levees are funded and conducted under the PL 84-99 Rehabilitation and Inspection Program. Because the subject levees in the proposed project area are classified as Federal levees, inspections are funded and conducted under the ICW program.

## A.1.26 Native American Graves Protection and Repatriation Act

The Native American Graves Protection and Repatriation Act (NAGPRA) defines the ownership of Native American human remains and funerary materials excavated on lands owned or controlled by

the Federal government. This review of NAGPRA is provided because the FRWLP may traverse Federal lands. NAGPRA establishes a hierarchy of ownership as follows (25 USC 3002[a]).

- Where the lineal descendants can be found, the lineal descendants own the remains.
- Where the lineal descendants cannot be found, the remains belong to the Indian tribe or Native Hawaiian organization on whose land the remains were found.
- If the remains are discovered on other lands owned or controlled by the Federal government and the lineal descendants cannot be determined, the remains belong to the Indian tribe or Native Hawaiian organization that is culturally affiliated with the remains, or the tribe that aboriginally occupied the land where the remains were discovered.

Under NAGPRA, intentional excavation of Native American human remains on lands owned or controlled by the Federal government may occur (25 USC 3002[c]) only under the following circumstances.

- With a permit issued under the Archaeological Resources Protection Act (16 USC 470cc).
- After documented consultation with the relevant tribal or Native American groups.

NAGPRA also provides guidance on inadvertent discoveries of Native American or Hawaiian human remains on lands owned or controlled by the Federal government. When an inadvertent discovery on these lands occurs in association with construction, construction must cease. The party that discovers the remains must notify the relevant Federal agency, and the remains must be transferred according to the ownership provisions above (25 USC 3002[d]).

### A.1.27 Archaeological Resources Protection Act

The Archaeological Resources Protection Act (ARPA) requires a permit for intentional excavation of archaeological materials on Federal lands (16 USC 470ee[a]). This review of ARPA is provided because the FRWLP may traverse Federal lands. The Federal agency that owns or controls the land may dispense permits for excavation as provided in the ARPA regulations (43 CFR Section 7.5). The permit may require notice to affected Indian tribes (43 CFR Section 7.7), and compliance with the terms and conditions provided in the ARPA regulations (43 CFR Section 7.9).

## A.1.28 Executive Order 13112: Prevention and Control of Invasive Species

EO 13112, signed February 3, 1999, directs all Federal agencies to prevent and control the introduction of invasive species in a cost-effective and environmentally sound manner. The EO established the National Invasive Species Council (NISC), which is composed of Federal agencies and departments, and a supporting Invasive Species Advisory Committee composed of state, local, and private entities. In 2008, the NISC released an updated national invasive species management plan that recommends objectives and measures to implement the EO and prevent the introduction and spread of invasive species (National Invasive Species Council 2008). The EO requires consideration of invasive species in NEPA analyses, including their identification and distribution, their potential effects, and measures to prevent or eradicate them.

## A.1.29 Engineer Technical Letter (ETL) 1110-2-571 10 April 2009

In 2009, USACE published new Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures for the control of vegetation on levees (ETL 1110-2-571 10 April 2009). These guidelines recommend that a vegetation-free zone be established.

The vegetation-free zone is a three-dimensional corridor surrounding all levees, floodwalls, embankment dams, and critical appurtenant structures in all flood damage reduction systems. The vegetation-free zone applies to all vegetation except perennial, non-irrigated grass. Grass species are permitted. The only grasses permitted are perennial grasses whose primary function is to reliably protect against erosion. The species selected for the project shall be appropriate to local climate, conditions, and surrounding or adjacent land uses. Preference should be given to native species.

The primary purpose of a vegetation-free zone is to provide a reliable corridor of access to, or along, levees, floodwalls, embankment dams, and appurtenant structures. This corridor must be free of obstructions to assure adequate access by personnel and equipment for surveillance, inspection, maintenance, monitoring, and flood-fighting. In the case of flood-fighting, this access corridor must also provide the unobstructed space needed for the construction of temporary flood-control structures. Access is typically by four-wheel-drive vehicle, but for some purposes, such as maintenance and flood-fighting, access is required for larger equipment, such as tractors, bulldozers, dump trucks and helicopters. Accessibility is essential to the reliability of flood damage reduction systems.

The vegetation-free zone must be wide enough and tall enough to accommodate all likely access requirements. The minimum width of the corridor shall be the width of the levee, floodwall, or embankment dam, including all critical appurtenant structures, plus 15 feet on each side, measured from the outer edge of the outermost critical structure. In the case of a landside planting berm, the 15 feet is measured from the point at which the top surface of the planting berm meets the levee section. The minimum height of the corridor shall be 8 feet from any point on the ground.

No vegetation, other than approved grasses, may penetrate the vegetation-free zone, with two exceptions.

- Tree trunks are measured to their centerline, so one half of the tree trunk may be within the vegetation-free zone.
- Newly planted trees, whose crowns can be expected to grow, or be pruned, clear of the vegetation free zone within 10 years may be within the vegetation-free zone. (U.S. Army Corps of Engineers 2009.)

## A.1.30 Federal - Massachusetts et al. v. U.S. Environmental Protection Agency (2007)

Twelve U.S. states and cities, including California, in conjunction with several environmental organizations, sued to force EPA to regulate greenhouse gases (GHGs) as a pollutant pursuant to the CAA in *Massachusetts et al. v. Environmental Protection Agency 549 US 497* (2007). The court ruled

that the plaintiffs had standing to sue, GHGs fit within the CAA's definition of a pollutant, and EPA's reasons for not regulating GHGs were insufficiently grounded in the CAA.

### A.1.31 Energy Independence and Security Act of 2007

The Energy Independence and Security Act of 2007 mandates a host of actions that would aid in the reduction of GHG emissions. These actions include (but are not limited to): fuel economy standard of 35 miles per gallon (mpg) by 2020; improved energy efficiency in lighting and appliances; and investments in efficiency and renewable energy use.

## A.1.32 Update to Corporate Average Fuel Economy Standards (2009)

The new Corporate Average Fuel Economy (CAFE) standards incorporate stricter fuel economy standards promulgated by the State of California into one uniform standard. Additionally, automakers are required to cut GHG emissions in new vehicles by roughly 25% by 2016. Rule-making to adopt these new standards is in process, and thus they are not yet in effect. When the national program takes effect, California has committed to allowing automakers who show compliance with the national program also to be deemed in compliance with state requirements (U.S. Environmental Protection Agency 2010a).

## A.1.33 EPA Rule: Mandatory Reporting of Greenhouse Gases (2009)

Under the rule, suppliers of fossil fuels or industrial GHGs, manufacturers of vehicles and engines, and facilities that emit 25,000 metric tons (MT) or more per year of GHGs are required to report annual emissions to the EPA. The first annual reports for the largest emitting facilities, covering calendar year 2010, would be submitted to the EPA in 2011. The mandatory reporting rule does not limit GHG emissions but establishes a standard framework for emissions reporting and tracking of large emitters (U.S. Environmental Protection Agency 2010a).

## A.1.34 EPA Endangerment Finding and Cause or Contribute Finding (2009)

In its Endangerment Finding, the Administrator of the EPA found, as described above, that GHGs in the atmosphere threaten the public health and welfare of current and future generations. The Administrator also found that the combined emissions of well-mixed GHGs from new motor vehicles and new motor vehicle engines contribute to the GHG pollution that threatens public health and welfare. Although the Finding of Endangerment does not place requirements on industry, it is an important step in the EPA's process to develop regulation. This action is a prerequisite to finalizing the EPA's proposed GHG emission standards for light-duty vehicles, which were jointly proposed by EPA and the Department of Transportation's National Highway Safety Administration on September 15, 2009 (U.S. Environmental Protection Agency 2010a).

In its Cause or Contribute Finding the Administrator found that the combined emissions of well-mixed GHG from new motor vehicles and new motor vehicle engines contribute to the GHG pollution that threatens public health and welfare (U.S. Environmental Protection Agency 2010a).

## A.1.35 National Global Change Research Plan, 2012–2021 (Published in 2012)

In 2012 the National Science and Technology Council published the most recent update to the *National Global Change Research Plan, 2012-2021* (National Science and Technology Council 2012). The National Science and Technology Council represents 13 Federal agencies which are responsible for developing policies and procedures to research, track and mitigate global change, including sealevel rise, ocean acidification, heat waves and drought, severe storms, floods, and forest fires that pose an ever-growing risk to life, property and agriculture. The Research Plan presented four major goals: Advance Scientific Knowledge; Inform Decisions; Conduct Sustained Assessments; and Communicate and Educate.

### A.1.36 Federal Tailpipe Emission Standards

To reduce emissions from off-road diesel equipment, on-road diesel trucks, and harbor craft, EPA established a series of increasingly strict emission standards for new engines. New construction equipment used for the project, including heavy-duty trucks, off-road construction equipment, tugboats, and barges, will be required to comply with the emission standards.

## A.2 State Plans, Policies, and Regulations

## A.2.1 California Environmental Quality Act

The California Environmental Quality Act (CEQA) requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible. The environmental review required imposes both procedural and substantive requirements. At a minimum, an initial review of the project and its environmental effects must be conducted. CEQA's primary objectives are listed below.

- Disclose to decision makers and the public the significant environmental effects of proposed activities.
- Identify ways to avoid or reduce environmental damage.
- Prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures.
- Disclose to the public reasons for agency approval of projects with significant environmental effects.
- Foster interagency coordination in the review of projects.
- Enhance public participation in the planning process.

CEQA applies to all discretionary activities proposed to be carried out or approved by California public agencies, including state, regional, county, and local agencies, unless an exemption applies. The act requires that public agencies comply with both procedural and substantive requirements. Procedural requirements include the preparation of the appropriate public notices (including notices of preparation), scoping documents, alternatives, environmental documents (including mitigation measures, mitigation monitoring plans, responses to comments, findings, and statements

of overriding considerations), completion of agency consultation and State Clearinghouse review, and provisions for legal enforcement and citizen access to the courts.

CEQA's substantive provisions require agencies to address environmental impacts disclosed in an appropriate document. When avoiding or minimizing environmental damage is not feasible, CEQA requires agencies to prepare a written statement of overriding considerations when they decide to approve a project that would cause one or more significant effects on the environment that cannot be mitigated. CEQA establishes a series of action-forcing procedures to ensure that agencies accomplish the purposes of the law. In addition, under the direction of CEQA, the California Resources Agency has adopted regulations, known as the State CEQA Guidelines, which provide detailed procedures that agencies must follow to implement the law.

This document is the instrument for CEQA compliance, as described in Chapter 1, *Introduction*.

### **Cultural Resources Protection under CEQA**

CEQA requires the lead agency to consider the effects of a project on cultural resources. Two categories of cultural resources are specifically called out in the State CEQA Guidelines: historical resources (State CEQA Guidelines Section 15064.5[b]) and unique archaeological sites (State CEQA Guidelines 15064.5[c] and Public Resources Code (PRC) Section 21083.2). Different legal rules apply to the two different categories of cultural resources, although the two categories sometimes overlap where a "unique archaeological resource" also qualifies as a "historical resource." In such an instance, the more stringent rules for archaeological resources that are historical resources apply, as explained below. CEQA and other California laws also set forth special rules for dealing with human remains that might be encountered during construction.

Historical resources are those meeting any of the requirements listed below.

- Resources listed in or determined eligible for listing in the California Register of Historical Resources (CRHR) (State CEQA Guidelines Section 15064.5[a][1]).
- Resources included in a local register as defined in California PRC Section 5020.1(k), "unless the preponderance of evidence demonstrates" that the resource "is not historically or culturally significant" (State CEQA Guidelines Section 15064.5[a][2]).
- Resources that are identified as significant in surveys that meet the standards provided in California PRC Section 5024.1[g] (State CEQA Guidelines Section 15064.5[a][3]).
- Resources that the lead agency determines are significant, based on substantial evidence (State CEQA Guidelines Section 15064.5[a][3]).

Cultural resources may be listed in the CRHR if they have significance and integrity. Cultural resources are significant if they meet any of the following criteria.

- Resources that are associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage, or the United States (California Code of Regulations [CCR], Title 14, Section 4852[b][1]).
- Resources that are associated with the lives of persons important in our past (14 CCR 4852[b][2]).

- Resources that embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values (14 CCR 4852[b][3]).
- Resources that yield, or may be likely to yield, information important in prehistory or history (14 CCR 4852[b][4]).

Integrity for built environment resources means the "survival of characteristics that existed during the resource's period of significance" (14 CCR Section 4852[c]). Integrity must also be assessed in relationship to the particular criterion under which a resource has significance. For example, even where a resource has "lost its historic character or appearance [it] may still have sufficient integrity for the California Register if it maintains the potential to yield significant scientific or historical information or specific data" (14 California Code of Regulations Section 4852[c]). Integrity is further defined as the ability to "convey the reasons" for the significance of the resource (14 CCR Section 4852[c]).

For archaeological sites, this language therefore means that a site must have a likelihood of yielding useful information for research in order to have integrity, if the site is significant for its data potential.

The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources, not included in a local register of historical resources, or identified in a historical resource survey does not preclude a lead agency under CEQA from determining that the resource *may* be a historical resource as defined in California PRC Section 5020.1(j) or 5024.1 (State CEQA Guidelines Section 15064.5[a][4]).

A project that causes a substantial adverse change in the significance of a historical resource is a project that may cause a significant impact under CEQA (State CEQA Guidelines Section 15064.5[b]). A substantial adverse change in the significance of a historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of a historical resource would be materially impaired. The significance of a historical resource is materially impaired if the project demolishes or materially alters any qualities:

- that justify the inclusion or eligibility for inclusion of a resource on the CRHR (State CEQA Guidelines Section 15064.5[b][2][A],[C]); or
- that justify the inclusion of the resource on a local register (State CEQA Guidelines Section 15064.5[b][2][B]).

*Unique archaeological resources*, on the other hand, are defined in California PRC Section 21083.2 as a resource that meets at least one of the following criteria.

- The resource contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
- The resource has a special and particular quality such as being the oldest of its type or the best available example of its type.
- The resource is directly associated with a scientifically recognized important prehistoric or historic event or person. (California PRC Section 21083.2[g])

### Mitigation Requirements for Archaeological Resources Qualifying As Historical Resources

As set forth in State CEQA Guidelines Section 15064.5[c], special rules apply where a lead agency is not certain at first whether an archaeological resource qualifies as either a "historical resource" or a "unique archaeological resource." That section provides that "[w]hen a project will impact an archaeological site, a lead agency shall first determine whether the site is a historical resource." "If a lead agency determines that the archaeological site is a historical resource," the resource will be subject to the rules set forth above regarding historical resources. In addition, according to State CEQA Guidelines Section 15126.4[b]:

[p]ublic agencies should, whenever feasible, seek to avoid damaging effects on any historical resource of an archaeological nature. The following factors shall be considered and discussed in an EIR for a project involving such an archaeological site:

- (A) Preservation in place is the preferred manner of mitigating impacts to archaeological sites. Preservation in place maintains the relationship between artifacts and the archaeological context. Preservation may also avoid conflict with religious or cultural values of groups associated with the site.
- (B) Preservation in place may be accomplished by, but is not limited to, the following:
  - 1. Planning construction to avoid archaeological sites;
  - 2. Incorporation of sites within parks, greenspace, or other open space;
  - 3. Covering the archaeological sites with a layer of chemically stable soil before building tennis courts, parking lots, or similar facilities on the site.
  - 4. Deeding the site into a permanent conservation easement.

Thus, although California PRC Section 21083.2, in dealing with "unique archaeological sites," provides for specific mitigation options "in no order of preference," CEQA Guidelines Section 15126.4(b), in dealing with "historical resources of an archaeological nature," provides that "preservation in place is the preferred manner of mitigating impacts to archaeological sites."

For archaeological resources that qualify as historical resources, "data recovery" is a disfavored form of mitigation compared with "preservation in place." Yet "[w]hen data recovery through excavation is the only feasible mitigation, a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, would be prepared and adopted prior to any excavation being undertaken. Such studies would be deposited with the California Historical Resources Regional Information Center." Moreover, "[i]f an artifact must be removed during project excavation or testing, curation may be an appropriate mitigation" (State CEQA Guidelines Section 15126.4[b][3][C]). "Data recovery shall not be required [, however,] for a historical resource [as with a unique archaeological resource] if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the archaeological or historical resource, provided that the determination is documented in the EIR and that the studies are deposited with the California Historical Resources Regional Information Center" (State CEQA Guidelines Section 15126.4[b][3][D]).

With respect to *both* historical resources and unique archaeological resources:

a lead agency should make provisions for...resources accidentally discovered during construction. These provisions should include an immediate evaluation of the find by a qualified archaeologist. If the find is determined to be a historical or unique archaeological resource, contingency funding and a time allotment sufficient to allow for implementation of avoidance measures or appropriate

mitigation should be available. Work could continue on other parts of the building site while historical or unique archaeological resource mitigation takes place (State CEQA Guidelines Section 15064.5[f]).

#### **Mitigation for Unique Archaeological Resources**

If a lead agency determines that "an archaeological site does *not* meet the criteria" for qualifying as a historical resource "but does meet the definition of a unique archeological resource..., the site shall be treated in accordance with the provisions of section 21083.2" (described above). Section 21083.2 contains the special rules for mitigation for "unique archaeological resources." These rules do not apply if the archaeological resource is a historical resource (State CEQA Guidelines Section 15064.5[c][1]). The CEQA Statute states:

[i]f it can be demonstrated that a project will cause damage to a unique archaeological resource, the lead agency may require reasonable efforts to be made to permit any or all of these resources to be preserved in place or left in an undisturbed state. Examples of that treatment, in no order of preference, may include, but are not limited to, any of the following:

- 1. Planning construction to avoid archaeological sites.
- 2. Deeding archaeological sites into permanent conservation easements.
- 3. Capping or covering archaeological sites with a layer of soil before building on the sites.
- 4. Planning parks, greenspace, or other open space to incorporate archaeological sites.

Excavation as mitigation shall be restricted to those parts of the unique archaeological resource that would be damaged or destroyed by the project. Excavation as mitigation shall not be required for a unique archaeological resource if the lead agency determines that testing or studies already completed have adequately recovered the scientifically consequential information from and about the resource, if this determination is documented in the environmental impact report (California Public Resources Code Section 21083.2[d]).

If, however, "an archaeological resource is neither a unique archaeological nor a historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process" (State CEQA Guidelines Section 15064.5[c][4]).

#### Discoveries of Human Remains under CEOA

California law sets forth special rules that apply where *human remains* are encountered during project construction. These rules are set forth in State CEQA Guidelines Section 15064.5[e] as follows:

In the event of the accidental discovery or recognition of any human remains in any location other than a dedicated cemetery, the following steps should be taken:

- (1) There shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until:
  - (A) The coroner of the county in which the remains are discovered must be contacted to determine that no investigation of the cause of death is required (as required under California Health and Safety Code Section 7050.5).
  - (B) If the coroner determines the remains to be Native American:
    - The coroner shall contact the Native American Heritage Commission within 24 hours.

- 2. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American.
- 3. The most likely descendent may make recommendations to the landowner or the person responsible for the excavation work, for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods (as provided in Public Resources Code Section 5097.98), or
- (2) Where the following conditions occur, the landowner or his authorized representative shall rebury the Native American human remains and associated grave goods with appropriate dignity on the property in a location not subject to further subsurface disturbance.
  - (A) The Native American Heritage Commission is unable to identify a most likely descendent or the most likely descendent failed to make a recommendation within 24 hours after being notified by the commission.
  - (B) The descendant identified fails to make a recommendation; or
  - (C) The landowner or his authorized representative rejects the recommendation of the descendant, and the mediation by the Native American Heritage Commission fails to provide measures acceptable to the landowner.

### A.2.2 California Register of Historical Resources

The CRHR includes resources that are listed in or formally determined eligible for listing in the NRHP (see Section 3.17, *Cultural Resources*) as well as some California State Landmarks and Points of Historical Interest (PRC Section 5024.1, 14, CCR Section 4850). Properties of local significance that have been designated under a local preservation ordinance (local landmarks or landmark districts) or that have been identified in a local historical resources inventory may be eligible for listing in the CRHR and are presumed to be significant resources for purposes of CEQA unless a preponderance of evidence indicates otherwise (State CEQA Guidelines Section 15064.5[a][2]). The eligibility criteria for listing in the CRHR are similar to those for NRHP listing but focus on the importance of the resources to California history and heritage. A cultural resource may be eligible for listing in the CRHR if it:

- 1. is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- 2. is associated with the lives of person important in our past;
- 3. embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important individual, or possesses high artistic values; or
- 4. has yielded, or may be likely to yield, information important in prehistory or history.

## A.2.3 Native American Heritage Commission

The Native American Heritage Commission (NAHC) identifies and catalogs places of special religious or social significance to Native Americans and known graves and cemeteries of Native Americans on private lands, and performs other duties regarding the preservation and accessibility of sacred sites and burials and the disposition of Native American human remains and burial items. Consultation with NAHC and the Sacred Lands database was negative for findings in the affected area.

## A.2.4 California Native American Graves Protection and Repatriation Act

Sections 8010–8011 of the California Health and Safety Code establish a state repatriation policy that is consistent with and facilitates implementation of NAGPRA. The policy requires that all California Indian human remains and cultural items be treated with dignity and respect, and encourages voluntary disclosure and return of remains and cultural items by publicly funded agencies and museums in California. The policy provides for mechanisms to aid California Indian tribes, including non–Federally recognized tribes, in filing repatriation claims and getting responses to those claims.

## A.2.5 California Endangered Species Act

CESA is similar to ESA but pertains only to state-listed endangered and threatened species. CESA requires state agencies to consult with the California Department of Fish and Wildlife (CDFW) when preparing documents under CEQA to ensure that the actions of the state lead agency do not jeopardize the continued existence of listed species. CESA directs agencies to consult with CDFW on projects or actions that could affect listed species, directs CDFW to determine whether there would be jeopardy to listed species, and allows CDFW to identify "reasonable and prudent alternatives" to the project consistent with conserving the species. Agencies can approve a project that affects a listed species if the agency determines that there are "overriding considerations;" however, the agencies are prohibited from approving projects that would cause the extinction of a listed species.

Mitigating impacts on state-listed species involves avoidance, minimization, and compensation (listed in order of preference). Unavoidable effects on state-listed species are typically addressed in a detailed mitigation plan prepared in accordance with CDFW guidelines. CDFW exercises authority over mitigation projects involving state-listed species, including those resulting from CEQA mitigation requirements.

CESA prohibits the "take" of plant and wildlife species state-listed as endangered or threatened. CDFW may authorize take if there is an approved habitat management plan or management agreement that avoids or compensates for effects on listed species.

Effects on wildlife resources are discussed in Section 3.9, Wildlife.

### A.2.6 California Fish and Game Code

Protection of Fully protected species is described in Sections 3511, 4700, 5050, and 5515 of the California Fish and Game Code. These statutes prohibit take or possession of fully protected species and do not provide for authorization of incidental take of fully protected species. CDFW has informed non-Federal agencies and private parties that their actions must avoid take of any fully protected species.

#### Section 1600

CDFW regulates work that would substantially affect resources associated with rivers, streams, and lakes in California, pursuant to California Fish and Game Code Sections 1600 to 1607. Any action from a public project that substantially diverts or obstructs the natural flow or changes the bed, channel, or bank of any river, stream, or lake, or uses material from a streambed must be previously

authorized by CDFW in a lake or streambed alteration agreement under Section 1602 of the California Fish and Game Code. This requirement may in some cases apply to any work undertaken within the 100-year floodplain of a body of water or its tributaries, including intermittent streams and desert washes. As a general rule, however, it applies to any work done within the annual highwater mark of a wash, stream, or lake that contains or once contained fish and wildlife, or that supports or once supported riparian vegetation.

Applications for a Streambed Alteration Agreement would be submitted to CDFW to authorize the project under Section 1602.

### **Section 2800/Natural Community Conservation Planning Act**

The Natural Community Conservation Planning Act (NCCPA) (California Fish and Game Code Section 2800 et seq.) was enacted to support broad-based planning for effective protection and conservation of the state's wildlife heritage, while continuing to allow appropriate development and growth. The purpose of natural community conservation planning is to sustain and restore those species and their habitat identified by CDFW that are necessary to maintain the continued viability of biological communities affected by human changes to the landscape. A Natural Community Conservation Plan identifies and provides for those measures necessary to conserve and manage natural biological diversity within the plan area while allowing compatible use of the land. CDFW may authorize the take of any identified species, including listed and non-special-status species, pursuant to Section 2835 of the NCCPA, if the conservation and management of such species is provided for in a Natural Community Conservation Plan (NCCP) approved by CDFW.

The project would not affect the take of state-listed species or substantially degrade habitat, so a Natural Community Conservation Plan is not triggered. Effects on biological resources are discussed in Section 3.8, *Vegetation*, and Section 3.9, *Wildlife*.

#### Section 3503 and 3503.5

Section 3503 of the California Fish and Game Code states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird. Section 3503.5 specifically states that it is unlawful to take, possess, or destroy any raptors (i.e., species in the orders *Falconiformes* and *Strigiformes*), including their nests or eggs. Typical violations of these codes include destruction of active nests resulting from removal of vegetation in which the nests are located. Violation of Section 3503.5 could also include failure of active raptor nests resulting from disturbance of nesting pairs by nearby project construction. This statute does not provide for the issuance of any type of incidental take permit.

## A.2.7 Porter-Cologne Water Quality Control Act of 1969

In 1967, the Porter-Cologne Act established the State Water Board and nine RWQCBs as the primary state agencies with regulatory authority over California water quality and appropriative surface water rights allocations. Under this act (and the CWA), the state is required to adopt a water quality control policy and waste discharge requirements (WDRs) to be implemented by the State Water Board and nine RWQCBs. The State Water Board also establishes Basin Plans and statewide plans. The RWQCBs carry out State Water Board policies and procedures throughout the state.

Pursuant to the Porter-Cologne Act, the Central Valley RWQCB prepares and updates the Basin Plan for the Sacramento and San Joaquin River Basins every 3 years. The Basin Plan describes the

officially designated beneficial uses for specific surface water and groundwater resources and the enforceable water quality objectives necessary to protect those beneficial uses. The planning area is located within the Central Valley RWOCB jurisdiction and is subject to the Basin Plan.

The Basin Plan includes numerical and narrative water quality objectives for physical and chemical water quality constituents. Numerical objectives are set for temperature, dissolved oxygen (DO, turbidity, and pH; total dissolved solids, electrical conductivity, bacterial content, and various specific ions; trace metals; and synthetic organic compounds. Narrative objectives are set for parameters such as suspended solids, biostimulatory substances (e.g., nitrogen and phosphorus), oil and grease, color, taste, odor, and aquatic toxicity. Narrative objectives are often precursors to numeric objectives. The primary method used by the Central Valley RWQCB to ensure conformance with the Basin Plan's water quality objectives and implementation policies and procedures is to issue WDRs for projects that may discharge wastes to land or water. WDRs specify terms and conditions that must be followed during the implementation and operation of a project.

Basin Plans designate beneficial uses for specific surface water and groundwater resources and establish water quality objectives to protect those uses. The project has the potential to affect water quality in surface water or groundwater within the project area which is governed by the Central Valley RWQCB.

Section 3.2, *Water Quality and Groundwater Resources*, describes water quality effects and mitigation measures for the project.

### **Central Valley Regional Water Quality Control Board**

The Porter-Cologne Water Quality Control Act provides for the development and periodic review of water quality control plans (basin plans) for each region. The Central Valley RWQCB is responsible for implementing its Basin Plan (Central Valley Regional Water Quality Control Board 2009) for the Feather River and its tributaries. The basin plan identifies beneficial uses of the river and its tributaries and water quality objectives to protect those uses. Numerical and narrative criteria are contained in the basin plan for several key water quality constituents, including DO, water temperature, trace metals, turbidity, suspended material, pesticides, salinity, radioactivity, and other related constituents.

Basin plans are implemented primarily by using the NPDES permitting system to regulate waste discharges so that water quality objectives are met (see discussion of the NPDES system under CWA above). Basin plans are supposed to be updated every 3 years and provide the technical basis for determining WDRs and taking enforcement actions. The Central Valley RWQCB Basin Plan was last updated in 2007. Another method the Central Valley RWQCB uses to implement the basin plan criteria is by issuing WDRs. WDRs are issued to any entity that discharges to a surface water body and does not meet certain water quality criteria such as those related to sediment. The WDR/NPDES permit also serves as a Federally required NPDES permit (under the CWA) and incorporates the requirements of other applicable regulations.

### **State Implementation Plan**

In 1994, the State Water Board and EPA agreed to a coordinated approach for addressing priority toxic pollutants in inland surface waters, enclosed bays, and estuaries of California. In March 2000, the State Water Board adopted a SIP for priority toxic pollutant water quality criteria contained in the California Toxics Rule (CTR). The EPA promulgated the CTR in May 2000. The SIP also

implements National Toxics Rule (NTR) criteria and applicable priority pollutant objectives in the basin plans. In combination, the CTR and NTR and applicable basin plan objectives, existing RWQCB beneficial use designations, and SIP compose water quality standards and implementation procedures for priority toxic pollutants in non-ocean surface waters in California, such as the Feather River.

The CTR was promulgated in 2000 in response to requirements of the EPA NTR. The NTR and CTR criteria are regulatory criteria adopted for inland surface waters, enclosed bays, and estuaries in California that are subject to regulation pursuant to Section 303(c) of the CWA. The NTR and CTR include criteria for the protection of aquatic life and human health. Human health criteria (water and organisms) apply to all waters with a Municipal and Domestic Supply beneficial use designation as indicated in the RWQCBs' basin plans. The Policy for Implementation of Toxics Standards for Inland Surface Waters, Enclosed Bays, and Estuaries of California, also known as the State Implementation Plan, was adopted by the State Water Board in 2000 to establish provisions for translating CTR criteria, NTR criteria, and basin plan water quality objectives for toxic pollutants into the following.

- NPDES permit effluent limits
- Compliance determinations
- Monitoring for dioxin (2,3,7,8-TCDD) equivalents
- Chronic toxicity control provisions
- Initiating site-specific objective development
- Granting exceptions.

See Section 3.2, Water Quality and Groundwater Resources, for information related to the project.

## A.2.8 California Code of Regulations, Title 23

The Central Valley Flood Protection Board (CVFPB) (formerly the California Reclamation Board) of the State of California regulates the modification and construction of levees and floodways in the Central Valley defined as part of the Sacramento Valley and San Joaquin Valley flood control projects. Rules promulgated in Title 23 of the CCR (Title 23, Division 1, Article 8 [Section 111 through 137]) regulate the modification and construction of levees to ensure public safety. The CVFPB requires an encroachment permit for any non-Federal activity along or near Federal flood damage reduction project levees and floodways or in CVFPB-designated floodways to ensure that proposed local actions or projects do not impair the integrity of existing flood damage reduction systems to withstand flood conditions. The permits are conditioned upon SBFCA's receipt of permission from USACE for alteration of the Federal project works pursuant to Section 408. The rules further state that existing levees may not be excavated or left partially excavated during the flood season, which is generally November 1 through April 15 for the proposed project area levees.

The following CVFPB guidance applies:

The California Reclamation Board has primary jurisdiction approval of levee design and construction. The Reclamation Board standards are found in Title 23, Division 1, Article 8 (Sections 111 through 137) of the California Code of Regulations (CCR), and constitute the primary state standard. Section 120 of the CCR directs that levee design and construction be in accordance with the USACE's Engineer Manual EM 1110-2-1913, Design and Construction of Levees. This document is the primary

federal standard applicable to this project, as supplemented by additional prescriptive standards contained in Section 120 of the CCR. These additional standards prescribe minimum levee cross-sectional dimensions, construction material types, and compaction levels.

## A.2.9 Central Valley Flood Control Act of 2008

The Central Valley Flood Control Act of 2008, passed in 2007, recognizes that the Central Valley of California, which includes the planning area, is experiencing unprecedented development, resulting in the conversion of historically agricultural lands and communities to densely populated residential and urban centers. Because of the potentially catastrophic consequences of flooding, the Act recognizes that the Federal government's current 100-year flood protection standard is not sufficient to protect urban and urbanizing areas within flood-prone areas throughout the Central Valley and declares that the minimum standard for these areas is a 200-year level of flood protection. To continue with urban development, cities and counties must develop and implement plans for achieving this new standard by 2025. With respect to flood risk reduction, the Central Valley Flood Control Act also calls upon the California Department of Water Resources (DWR) to develop a comprehensive Central Valley Flood Protection Plan (CVFPP) by the end of 2012 for protecting the lands currently within the Sacramento–San Joaquin River Flood Management System.

According to California Government Code Sections 65302.9 and 65860.1, every jurisdiction located within the Sacramento–San Joaquin Valley is required to update its General Plan and Zoning Ordinance in a manner consistent with the CVFPP within 24 months after the CVFPP's adoption, which occurred July 1, 2012. In addition, the locations of the state and local flood management facilities, locations of flood hazard zones, and the properties located in these areas must be mapped and consistent with the CVFPP.

The proposed project is intended to be consistent with the CVFPP, as the State seeks to continue to work with SBFCA to develop and implement projects to achieve an urban level of flood protection for Yuba City and other population centers in the affected area. This includes reconstructing and/or improving levees to urban design criteria (see below) along the west bank of the Feather River, adjacent to and upstream from Yuba City, as part of the FRWLP.

### Senate Bill 5, Senate Bill 17, and Assembly Bill 162

According to legislation as part of Senate Bill (SB) 5 (Machado and Wolk), SB 17 (Florez) and Assembly Bill (AB) 162 (Wolk), urban and urbanizing areas in the Sacramento Valley and San Joaquin Valley will be required to achieve, or make adequate progress toward achieving, 200-year protection by the year 2015 to continue to have development approved in the floodplain. Specifically, AB 162 requires that each local jurisdiction's Safety Element include 200-year floodplain maps. Maps must be based on the best available data on flood protection, including areas protected by state and Federal project levees, and areas outside of these areas.

### California Department of Water Resources Urban Levee Design Criteria

Pursuant to SB 5 (Government Code (GC) §65007(l)), the Urban Levee Design Criteria (ULDC) define the urban level of flood protection as the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, DWR. While cities and counties located outside of the Sacramento–San Joaquin Valley are not required to make findings related to the urban level of flood protection, the ULDC can help inform engineering and local land use decisions for areas at risk of flooding anywhere in California. The

ULDC was developed through a collaborative process with stakeholders from local government (including representatives from the Central Valley, San Francisco Bay Area, and Los Angeles Region), State government, and the Federal government.

The ULDC provide criteria and guidance for design, construction, operation, and maintenance of levees and floodwalls in urban and urbanizing areas. When finalized, the ULDC will supersede Version 4 of the Interim Levee Design Criteria for Urban and Urbanizing Areas in the Sacramento-San Joaquin Valley (Version 4), dated December 15, 2010. The ULDC contain numerous revisions and refinements from Version 4.

### A.2.10 California Surface Mining and Reclamation Act

The principal legislation addressing mineral resources in California is the Surface Mining and Reclamation Act of 1975 (SMARA) (PRC Sections 2710–2719), which was enacted in response to land use conflicts between urban growth and essential mineral production. The stated purpose of SMARA is to provide a comprehensive surface mining and reclamation policy that would encourage the production and conservation of mineral resources while ensuring that adverse environmental effects of mining are prevented or minimized; that mined lands are reclaimed and residual hazards to public health and safety are eliminated; and that consideration is given to recreation, watershed, wildlife, aesthetic, and other related values. SMARA governs the use and conservation of a wide variety of mineral resources, although some resources and activities are exempt from its provisions, including excavation and grading conducted for farming, construction, or recovery from flooding or other natural disaster.

Activities subject to SMARA include, but are not limited to, mining of minerals, gravel, and borrow material. The SMARA statute requires mitigation to reduce adverse effects on public health, property, and the environment. Because the Sacramento Area Flood Control Agency (SAFCA) would require borrow material for project construction, SAFCA must comply with SMARA. SMARA applies to an individual or entity that would disturb more than 1 acre or remove more than 1,000 cubic yards of material through surface mining activities, including the excavation of borrow pits for soil material. SMARA is implemented through ordinances for permitting developed by local government "lead agencies" that provide the regulatory framework under which local mining and reclamation activities are conducted. The State Mining and Geology Board reviews the local ordinances to ensure that they meet the procedures established by SMARA.

SMARA provides for the evaluation of an area's mineral resources using a system of Mineral Resource Zone (MRZ) classifications that reflect the known or inferred presence and significance of a given mineral resource. The MRZ classifications are based on available geologic information, including geologic mapping and other information on surface exposures, drilling records, and mine data; and socioeconomic factors such as market conditions and urban development patterns. The MRZ classifications are defined as follows.

- MRZ-1—areas where adequate information indicates that no significant mineral deposits are present, or where it is judged that little likelihood exists for their presence.
- MRZ-2—areas where adequate information indicates that significant mineral deposits are present, or where it is judged that a high likelihood for their presence exists.
- MRZ-3—areas containing mineral deposits, the significance of which cannot be evaluated from available data.

MRZ-4—areas where available information is inadequate for assignment into any other MRZ.

Although the state of California is responsible for identifying areas containing mineral resources, the county or city is responsible for SMARA implementation and enforcement by providing annual mining inspection reports and coordinating with California Geological Survey (CGS).

Mining activities that disturb more than 1 acre or 1,000 cubic yards of material require a SMARA permit from the lead agency, which is the county, city, or board that is responsible for ensuring that adverse environmental effects of mining are prevented or minimized. The lead agency establishes its own local regulations and requires a mining applicant to obtain a surface mining permit, submit a reclamation plan, and provide financial assurances, pursuant to SMARA.

Certain mining activities do not require a permit, such as excavation related to farming, grading related to restoring the site of a natural disaster, and grading related to construction. The project is under evaluation for SMARA applicability.

## A.2.11 California Important Farmland Inventory System and Farmland Mapping and Monitoring Program

The California Department of Conservation, Office of Land Conservation, maintains a statewide inventory of farmlands. These lands are mapped by the Division of Land Resource Protection as part of the Farmland Mapping and Monitoring Program. The maps are updated every 2 years with the use of aerial photographs, a computer mapping system, public review, and field reconnaissance. Farmlands are divided into the following five categories based on their suitability for agriculture.

- Prime Farmland: land that has the best combination of physical and chemical characteristics for crop production. It has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops when treated and managed.
- Farmland of Statewide Importance: land other than Prime Farmland that has a good combination of physical and chemical characteristics for crop production.
- Unique Farmland: land that does not meet the criteria for Prime Farmland or Farmland of Statewide Importance, but that has been used for the production of specific crops with high economic value.
- Farmland of Local Importance: land that is either currently producing crops or has the capability of production, but that does not meet the criteria of the categories above.
- Grazing Land: land on which the vegetation is suited to the grazing of livestock.

These categories are sometimes referred to as Important Farmland. Other categories used in the mapping system are urban and built-up lands, lands committed to non-agricultural use, and other lands (land that does not meet the criteria of any of the other categories).

Section 3.11, Agriculture, Land Use, and Socioeconomics, addresses effects on farmland.

## A.2.12 California Land Conservation Act (Williamson Act)

The California Land Conservation Act of 1965, commonly known as the Williamson Act (California Government Code Section 51200 et seq.), enables local governments to enter into contracts with private landowners for the purpose of promoting the continued use of the relevant land in

agricultural or related open space use. In return, landowners receive property tax assessments that are based on farming and open space uses instead of full market value. Local governments receive an annual subvention (subsidy) of forgone property tax revenues from the state via the Open Space Subvention Act of 1971.

The Williamson Act empowers local governments to establish agricultural preserves consisting of lands devoted to agricultural uses and other compatible uses. Upon establishment of such preserves, the locality may offer to owners of included agricultural land the opportunity to enter into annually renewable contracts that restrict the land to agricultural use for at least 10 years (i.e., the contract continues to run for 10 years following the first date upon which the contract is not renewed). In return, the landowner is guaranteed a relatively stable tax rate, based on the value of the land for agricultural/open space use only and unaffected by its development potential.

As a public agency that may acquire lands within agricultural preserves, including lands under contract, SBFCA is exempt from the normal cancellation process for Williamson Act contracts, because the contract is nullified for the portion of the land actually acquired (California Government Code Section 51295). SAFCA must provide notice to the California Department of Conservation prior to acquiring such lands (California Government Code Section 51291[b]). A second notice is required within 10 working days after the land is actually acquired (California Government Code Section 51291 (c ]). As the land would be acquired for flood damage reduction measures, SAFCA is exempt from the findings required in California Government Code Section 51292 (California Government Code Section 51293[e][1]) because the proposed project consists of flood control works. The preliminary notice to the California Department of Conservation, provided before lands are actually acquired, would demonstrate the purpose of the project and the exemption from the findings.

Section 3.11, Agriculture, Land Use, and Socioeconomics, addresses effects on farmland.

#### A.2.13 California Climate Solutions Act

In September 2006, Governor Arnold Schwarzenegger signed AB 32, the California Climate Solutions Act of 2006. AB 32 requires that statewide GHG emissions be reduced to 1990 levels by 2020. This reduction would be accomplished through an enforceable statewide cap on GHG emissions that would be phased in starting in 2012. To effectively implement the cap, AB 32 directs the California Air Resources Board (ARB) to develop and implement regulations to reduce statewide GHG emissions from stationary sources. AB 32 specifies that regulations adopted in response to AB 1493 should be used to address GHG emissions from vehicles. However, AB 32 also includes language stating that if the AB 1493 regulations cannot be implemented, then ARB should develop new regulations to control vehicle GHG emissions under the authorization of AB 32.

AB 32 requires that ARB adopt a quantified cap on GHG emissions representing 1990 emissions levels and disclose how it arrives at the cap; institute a schedule to meet the emissions cap; and develop tracking, reporting, and enforcement mechanisms to ensure that the state achieves the reductions in GHG emissions necessary to meet the cap. AB 32 also includes guidance to institute emissions reductions in an economically efficient manner and conditions to ensure that businesses and consumers are not unfairly affected by the reductions.

Contributions of GHG emissions related to the project are discussed in Section 3.6, Climate Change and Greenhouse Gas.

## A.2.14 California Regulations for Environmental Justice

Most state governments have plans and policies intended to protect and expand the local and regional economies affecting the communities within their jurisdictions. State plans and policies also frequently address other social and economic impact topics, including fiscal conditions and related public services that affect local residents' quality of life.

Within California, SB 115 (Chapter 690, Statutes of 1999) was signed into law in 1999. The legislation established OPR as the coordinating agency for state environmental justice programs (California Government Code, Section 65040.12[a]) and defined environmental justice in statute as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies" (Government Code Section 65040.12(e). SB 115 further required the California Environmental Protection Agency (Cal/EPA) to develop a model environmental justice mission statement for boards, departments, and offices within the agency by January 1, 2001 (Public Resources Code, Sections 72000–72001).

In 2000, SB 89 (Chapter 728, Statutes of 2000) was signed, which complemented SB 115 by requiring the creation of an environmental justice working group and an advisory group to assist Cal/EPA in developing an intra-agency environmental justice strategy (PRC Sections 72002–72003). SB 828 (Chapter 765, Statutes of 2001) added and modified due dates for the development of Cal/EPA's intra-agency environmental justice strategy and required each board, department, and office within Cal/EPA to identify and address, no later than January 1,2004, any gaps in its existing programs, policies, and activities that may impede environmental justice (PRC, Sections 71114–71115).

Cal/EPA adopted its environmental justice policy in 2004 (California PRC, Sections 71110–71113). This policy (or strategy) provides guidance to its resource boards, departments, and offices. It is intended to help achieve the state's goal of "achieving fair treatment of people of all races, cultures and incomes with respect to the development, adoption, implementation and enforcement of environmental laws and policies."

AB 1553 (Chapter 762, Statutes of 2001) required OPR to incorporate environmental justice considerations in the General Plan Guidelines. AB 1553 specified that the guidelines should propose methods for local governments to address the following goals.

- Plan for the equitable distribution of new public facilities and services that increase and enhance community quality of life.
- Provide for the location of industrial facilities and uses that pose a significant hazard to human health and safety in a manner that seeks to avoid over-concentrating these uses in proximity to schools or residential dwellings.
- Provide for the location of new schools and residential dwellings in a manner that avoids proximity to industrial facilities and uses that pose a significant hazard to human health and safety.
- Promote more livable communities by expanding opportunities for transit-oriented development.

Although environmental justice is not a mandatory topic in the general plan, OPR is required to provide guidance to cities and counties for integrating environmental justice into their general

plans. The 2003 edition of the *General Plan Guidelines* included the contents required by AB 1553 (see pages 8, 12, 20–27, 40, 114, 142, 144, and 260 of the revised *General Plan Guidelines*).

Environmental justice issues pertaining to the project are discussed in Section 3.12, *Population, Housing, and Environmental Justice*.

## A.2.15 Water Use Efficiency

The California Constitution prohibits the waste or unreasonable use of water. Further, Water Code Section 275 directs DWR and the State Water Board to "take all appropriate proceedings or actions before executive, legislative, or judicial agencies to prevent waste or unreasonable use of water." Several legislative acts have been adopted to develop efficient use of water in the state.

- Urban Water Management Planning Act of 1985
- Water Conservation in Landscaping Act of 1992
- Agricultural Water Management Planning Act
- Agricultural Water Suppliers Efficient Management Practices Act of 1990
- Water Recycling Act of 1991
- Agricultural Water Conservation and Management Act of 1992

The purpose of the project is to address flood issues; it would not result in the waste or unreasonable use of water.

### A.2.16 Public Trust Doctrine

When planning and allocating water resources, the State of California is required to consider the public trust and preserve for the public interest the uses protected by the trust. The public trust doctrine embodies the principle that certain resources, including water, belong to all and, thus, are held in trust by the state for future generations.

In common law, the public trust doctrine protects navigation, commerce, and fisheries uses in navigable waterways. However, the courts have expanded the doctrine's application to include protecting tideland, wildlife, recreation, and other public trust resources in their natural state for recreational, ecological, and habitat purposes as they affect birds and marine life in navigable waters. *The National Audubon Society v. Superior Court of Alpine County* (1983) 33 Cal 3d 419 decision extended the public trust doctrine's limitations on private rights to appropriative water rights, and also ruled that longstanding water rights could be subject to reconsideration and could possibly be curtailed. The doctrine, however, generally requires the court and the State Water Board to perform a balancing test to weigh the potential value to society of a proposed or existing diversion against its effect on trust resources.

The 1986 Rancanelli decision applied the public trust doctrine to decisions by the State Water Board and held that this doctrine must be applied by the State Water Board in balancing all the competing interests in the uses of Bay-Delta waters (*United States v. State Water Resources Control Board* [1986] 182 Cal. App. 3d 82).

The project is consistent with the public trust doctrine, as the primary goals include improved flood protection.

## A.2.17 Davis-Dolwig Act

The Davis-Dolwig Act declares that recreation and fish and wildlife enhancement are among the purposes of state water projects. It specifies that costs for recreation and fish and wildlife enhancement not be included in prices, rates, and charges for water and power to urban and agricultural users. Under the Davis-Dolwig Act, land for recreation and fish and wildlife enhancement must be planned and initiated at the same time as any other land acquisition for the project. Implementation of the project would maintain existing recreation areas and not preclude opportunities for future recreation use or facilities. While the project is not related to water supply, it consistent with this act.

## A.2.18 Relocation Assistance and Property Acquisition

The State of California's Government Code Section 7260, et seq. brings the California Relocation Act into conformity with the Federal Uniform Act. In the acquisition of real property by a public agency, both the Federal and state acts seek to (1) ensure consistent and fair treatment of owners of real property, (2) encourage and expedite acquisition by agreement to avoid litigation and relieve congestion in the courts, and (3) promote confidence in public land acquisition.

The Relocation Assistance and Real Property Acquisition Guidelines were established by 25 CCR 1.6. The guidelines were developed to assist public entities with developing regulations and procedures implementing Title 42, Chapter 61 of the USC, the Uniform Act, for Federal and Federally-assisted programs. The guidelines are designed to ensure that uniform, fair, and equitable treatment is given to people displaced from their homes, businesses, or farms as a result of the actions of a public entity. Under the act, persons required to relocate temporarily are not considered displaced, but must be treated fairly. Such persons have a right to temporary housing that is decent, safe, and sanitary, and must be reimbursed for all reasonable out-of-pocket expenses. In accordance with these guidelines, people may not suffer disproportionate injury as a result of action taken for the benefit of the public as a whole. Additionally, public entities must ensure consistent and fair treatment of owners of such property, and encourage and expedite acquisitions by agreement with owners of displaced property to avoid litigation.

Property acquisition and relocation services, compensation for living expenses for temporarily relocated residents, and negotiations regarding any compensation for temporary loss of business would be accomplished in accordance with the Uniform Act (see above) and California Government Code Section 7267 et seq.

# A.2.19 Safe, Clean, Reliable Water Supply Act

This act declares that the basic goals of the state are, among other findings, to protect the integrity of the state's water supply system from catastrophic failure attributable to earthquakes and flooding.

# A.2.20 Alquist-Priolo Earthquake Fault Zoning Act

California's Alquist-Priolo Earthquake Fault Zoning Act (Alquist-Priolo Act) (PRC Section 2621 et seq.), originally enacted in 1972 as the Alquist-Priolo Special Studies Zones Act and renamed in 1994, is intended to reduce risks to life and property from surface fault rupture during earthquakes. The Alquist-Priolo Act prohibits the location of most types of structures intended for human occupancy across the traces of active faults and strictly regulates construction in the corridors along

active faults (earthquake fault zones). It also defines criteria for identifying active faults, giving legal weight to terms such as active, and establishes a process for reviewing building proposals in and adjacent to earthquake fault zones.

Under the Alquist-Priolo Act, faults are zoned, and construction along or across them is strictly regulated if they are "sufficiently active" and "well defined." A fault is considered sufficiently active if one or more of its segments or strands shows evidence of surface displacement during Holocene time (defined for purposes of the act as referring to approximately the last 11,000 years). A fault is considered well-defined if its trace can be identified clearly by a trained geologist at the ground surface, or in the shallow subsurface using standard professional techniques, criteria, and judgment (Bryant and Hart 2007).

The act directs CGS to establish the regulatory zones, called AP Earthquake Fault Zones, around the known surface traces of active faults and to publish maps showing these zones. Each fault zone extends approximately 200 to 500 feet on each side of the mapped fault trace to account for potential branches of active faults.

CGS Special Publication 42 (Bryant and Hart 2007) states that in the absence of a site-specific faulting study, the areas within 50 feet of the mapped fault should be considered to have the potential for surface faulting and, therefore, no structure for human occupancy should be in these areas. Construction of buildings intended for human occupancy within the fault zone boundaries is strictly regulated, and site-specific faulting investigations are required.

Title 14 of CCR, Section 3601(e), defines buildings intended for human occupancy as those that would be inhabited for more than 2,000 hours per year. If no facilities are to be within AP Earthquake Fault Zones, this act would not apply.

## A.2.21 Seismic Hazards Mapping Act

Like the Alquist-Priolo Act, the Seismic Hazards Mapping Act of 1990 (PRC Sections 2690–2699.6) is intended to reduce damage resulting from earthquakes. While the Alquist-Priolo Act addresses surface fault rupture, the Seismic Hazards Mapping Act addresses other earthquake-related hazards, including strong ground shaking, liquefaction, and seismically induced landslides. Its provisions are similar in concept to those of the Alquist-Priolo Act: The state is charged with identifying and mapping areas at risk of strong ground shaking, liquefaction, landslides, and other corollary hazards; and cities and counties are required to regulate development within mapped seismic hazard zones.

Under the Seismic Hazards Mapping Act, permit review is the primary mechanism for local regulation of development. Specifically, cities and counties are prohibited from issuing development permits for sites within seismic hazard zones until appropriate site-specific geologic and/or geotechnical investigations have been carried out and measures to reduce potential damage have been incorporated into the development plans.

# A.2.22 California Building Standards Code

California's minimum standards for structural design and construction are given in the California Building Standards Code (CBSC) (24 CCR). The CBSC provides standards for various aspects of construction, including excavation, grading, and earthwork construction; fills and embankments; expansive soils; foundation investigations; and liquefaction potential and soil strength loss. In

accordance with California law, certain aspects of the project would be required to comply with all provisions of the CBSC.

# A.2.23 Assembly Bill 939, Titles 14, 17, and 27, Chapter 1095, Statutes of 1989

GHG emissions from landfills are regulated under AB 939, Titles 14 and 27. AB 939 mandated local jurisdictions to meet waste diversion goals of 25% by 1995 and 50% by 2000. In addition, AB 939 established an integrated statewide system for compliance and program implementation. Titles 14 and 27 contain detailed rules on daily operations, handling of specific waste types, monitoring, closure, and record-keeping.

At its June 25, 2009, public hearing, ARB approved for adoption CCR Title 17, article 4, sub-article 6, sections 95460 to 95476, Methane Emissions from Municipal Solid Waste Landfills. This regulation is a discrete early action GHG-reduction measure, as described in the California Global Warming Solutions Act of 2006 (AB 32; Stats. 2006, chapter 488). It would reduce methane emissions from landfills primarily by requiring owners and operators of certain uncontrolled landfills to install gas collection and control systems, and by requiring existing and newly installed gas collection and control systems to operate optimally.

# A.2.24 Assembly Bill 1493—Pavley Rule (2002)

Known as Pavley I, AB 1493 standards are the nation's first GHG standards for automobiles. AB 1493 requires ARB to adopt vehicle standards that will lower GHG emissions from new light duty autos to the maximum extent feasible beginning in 2009. Additional strengthening of the Pavley standards (Pavley II) has been proposed for vehicle model years 2017–2020. Together, the two standards are expected to increase average fuel economy to roughly 43 mpg by 2020 and reduce GHG emissions from the transportation sector in California by approximately 14%. In June 2009, the EPA granted California's waiver request, enabling the state to enforce its GHG emissions standards for new motor vehicles beginning with the current model year. The new Federal CAFE standards, described above, are the analogous national policy.

# A.2.25 Executive Order S-03-05 (2005)

Executive Order S-03-05 established the following GHG emission reduction targets for California's state agencies:

- By 2010, reduce GHG emissions to 2000 levels.
- By 2020, reduce GHG emissions to 1990 levels.
- By 2050, reduce GHG emissions to 80% below 1990 levels.

Executive orders are binding only on state agencies. Accordingly, Executive Order S-03-05 will guide state agencies' efforts to control and regulate GHG emissions but would have no direct binding effect on local efforts. The Secretary of the Cal/EPA is required to report to the Governor and state legislature biannually on the effects of climate change on California, mitigation and adaptation plans, and progress made toward reducing GHG emissions to meet the targets established in this executive order.

# A.2.26 Senate Bill 97, Chapter 185 (2007)

SB 97 of 2007 requires that the State's OPR prepare guidelines to submit to the California Resources Agency regarding feasible mitigation of GHG emissions or the effects of GHG emissions as required by CEQA. The Natural Resources Agency adopted Amendments to the State CEQA Guidelines for GHG emissions on December 30, 2009. On February 16, 2010, the State's Office of Administrative Law approved the amendments and filed them with the Secretary of State for inclusion in the California Code of Regulations. The amendments became effective March 18, 2010.

# A.2.27 Executive Order S-01-07, Low Carbon Fuel Standard (2007)

Executive Order S-01-07 essentially mandates: (1) that a statewide goal be established to reduce the carbon intensity of California's transportation fuels by at least 10% by 2020, and (2) that a low carbon fuel standard (LCFS) for transportation fuels be established in California. The executive order initiates a research and regulatory process at the ARB. Based on an implementation plan developed by the CEC, ARB will be responsible for implementing the LCFS.

# A.2.28 California Air Resources Board Mandatory Greenhouse Gas Reporting Rule (Title 17) (2007)

In December of 2007, ARB approved a rule requiring mandatory reporting of GHG emissions from certain sources, pursuant to AB 32. Facilities subject to the mandatory reporting rule must report their emissions either annually for large facilities or triennially for smaller facilities starting from 2010. In general the rule applies to facilities emitting more than 25,000 MT of carbon dioxide equivalent ( $CO_2e$ ) in any given calendar year and electricity generating facilities with a nameplate generating capacity greater than 1 megawatt (MW) and/or emitting more than 2,500 MT  $CO_2e$  per year. Additional requirements apply to cement plants and entities that buy and sell electricity in the state.

# A.2.29 California Air Resources Board Local Government Operations Protocol (2008)

On September 25, 2008, the Local Government Operations Protocol (LGOP) was adopted by ARB. The protocol, prepared by ARB, California Climate Action Registry, International Council of Local Environmental Initiatives (ICLEI), and The Climate Registry, provides methods and techniques for the preparation of GHG emission inventories for local government municipal operations. The adopted protocol does not recommended any particular measures for GHG reductions by local governments (California Air Resources Board 2010a).

# A.2.30 Senate Bill 375—Sustainable Communities Strategy, Chapter 728 (2008)

SB 375 provides for a new planning process that coordinates land use planning, regional transportation plans, and funding priorities in order to help California meet the GHG reduction goals established in AB 32. SB 375 requires regional transportation plans (RTPs), developed by metropolitan planning organizations (MPOs), including the Sacramento Area Council of

Governments (SACOG), to incorporate a "sustainable communities strategy" (SCS) in their Regional Transportation Plans. The goal of the SCS is to reduce regional vehicle miles traveled (VMT) through land use planning and consequent transportation patterns. On September 23, 2010, ARB adopted regional GHG reduction targets that will focus each SCS. The target for the Sacramento region specifies a 7% reduction in per capita emissions by 2020 and a 16% reduction by 2035. SACOG is in the process of developing its SCS, pursuant to the regional GHG target. Completion is expected in December 2011. SB 375 also includes provisions for streamlined CEQA review for some infill projects such as transit-oriented development. However, those provisions would not become effective until an SCS is adopted.

# A.2.31 Senate Bills 1078/107 and Executive Order S-14-08— Renewable Portfolio Standard (2008)

SBs 1078 and 107, California's Renewable Portfolio Standard (RPS), obligates investor-owned utilities (IOUs), energy service providers (ESPs), and Community Choice Aggregations (CCAs) to procure an additional 1% of retail sales per year from eligible renewable sources until 20% is reached, no later than 2010. The CPUC and CEC are jointly responsible for implementing the program. EO S-14-08 set forth a longer range target of procuring 33% of retail sales by 2020.

# A.2.32 California Energy Efficiency Standards for Residential and Non-Residential Buildings (Title 24)(2008)

Energy Conservation Standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission in June 1977 and most recently revised in 2008 (24 CCR 6). Title 24 requires that building shells and building components be designed to conserve energy and the standards are updated periodically (roughly every 3 years) to allow consideration and incorporation of new energy efficiency technologies. This program has been partially responsible for keeping California's per capita energy use approximately constant over the past 30 years.

Title 24 standards were most recently updated on July 17, 2008. The new code, adopted by the California Building Standards Commission, represents the nation's first green building standards and went into effect on January 1, 2010. Part 11 of the code established voluntary actions (Tier 1 and 2), designed to achieve a higher level of efficiency and sustainability, including planning and design for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation, material conservation, and internal air contaminants. The voluntary standards became mandatory on January 1, 2011.

# A.2.33 California Cap-and-Trade (2010)

Pursuant to the directives of AB 32, ARB recently approved measures on December 16, 2010, to enact a GHG Cap-and-Trade program for the state of California. The California Cap-and-Trade program would create a  $\rm CO_2$  market system with a GHG emissions cap that will be decreased over time. Building on the data required by the 2007 California Mandatory GHG Reporting rule, only stationary sources that emit more than 25,000 MT of  $\rm CO_2$ e per year would be affected by the Cap-and-Trade program. These sources include mostly large operations such as power plants, refineries, cement plants, hydrogen production facilities, and other large, stationary sources. Official

rulemaking associated with achieving this emissions cap was adopted by January 1, 2011, and the actual program is to commence in 2012.

# A.2.34 Actions Taken by California Attorney General's Office

The California Attorney General (AG) has filed comment letters under CEQA about a number of proposed projects. The AG also has filed several complaints and obtained settlement agreements for CEQA documents covering general plans and individual programs that the AG found either failed to analyze GHG emissions or failed to provide adequate GHG mitigation. The AG's office prepared a report listing the measures that local agencies should consider under CEQA to offset or reduce global warming effects. The AG's office also has prepared a chart of modeling tools to estimate GHG emissions effects of projects and plans. Information on the AG's actions can be found on the California Department of Justice, Office of Attorney General web site (California Department of Justice 2008).

# A.2.35 California Air Pollution Control Officers Association Guidance

The California Air Pollution Control Officers Association (CAPCOA) released a report in January 2008 that describes methods to estimate and mitigate GHG emissions from projects subject to CEQA. The CAPCOA report evaluates several GHG thresholds that could be used to evaluate the significance of a project's GHG emissions. The CAPCOA report, however, does not recommend any one threshold. The report is designed as a resource for public agencies as they establish agency procedures for reviewing GHG emissions from projects subject to CEQA (California Air Pollution Control Officers Association 2008).

In 2010 CAPCOA prepared a supplemental guidance document entitled Quantifying Greenhouse Gas Mitigation Measures (California Air Pollution Control Officers Association 2010). The report is intended to provide a resource for applicants and planners who might be required to mitigate GHG emissions, and provides tools to quantify a wide range of potentially feasible GHG reduction measures. However, the document does not specify GHG significance thresholds, nor does it advocate any policy or specific set of GHG mitigation measures.

## A.2.36 Executive Order S-13-08

Executive Order S-13-08, issued November 14, 2008, directs the California Natural Resources Agency, DWR, Office of Planning and Research, Energy Commission, State Water Resources Control Board, State Parks Department, and California's coastal management agencies to participate in a number of planning and research activities to advance California's ability to adapt to the impacts of climate change. The order specifically directs agencies to work with the National Academy of Sciences to initiate the first California Sea Level Rise Assessment and to review and update the assessment every 2 years after completion; to immediately assess the vulnerability of the California transportation system to sea level rise; and to develop a California Climate Change Adaptation Strategy.

# A.2.37 Idling Limit Regulation

On June 15, 2008, ARB adopted a regulation for off-road diesel vehicles. The regulation is designed to reduce toxic air contaminants (TACs) from diesel-powered construction and mining vehicles operating in California. Fleet owners are subject to retrofit or accelerated replacement/repower requirements for which ARB must obtain authorization from EPA prior to enforcement.

The regulation also imposes idling limitations on owners, operators, and renters or lessees of off-road diesel vehicles. The idling limits became effective on June 15, 2008, and require an operator of applicable off-road vehicles (self-propelled, diesel-fueled vehicles of 25 horsepower and greater that were not designed for on-road driving) to limit idling to no more than 5 minutes. These requirements are specified in 13 CCR 2449(d)(3).

# A.2.38 State Tailpipe Emission Standards

To reduce emissions from off-road diesel equipment, on-road diesel trucks, and harbor craft, ARB established a series of increasingly strict emission standards for new engines. New construction equipment used for the project, including heavy duty trucks, off-road construction equipment, tugboats, and barges, will be required to comply with the standards.

# A.2.39 Carl Moyer Memorial Air Quality Attainment Program

The Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer Program) is a voluntary program that offers grants to owners of heavy-duty vehicles and equipment. The program is a partnership between ARB and the local air districts throughout the state. Locally, the air districts administer the Carl Moyer program. The purpose of the program is to reduce air pollution emissions from heavy-duty engines.

# A.3 Local Plans, Policies, and Regulations

In addition to Federal and state regulatory requirements, the project may be subject to certain zoning or other ordinances and general plans of Butte and Sutter Counties and cities in the affected area. These are presented below by resource topic for convenience. For more discussion on local plans and requirements applicable to the project, refer to the Regulatory Setting part of the specific resource sections of interest within this document.

# A.3.1 Flood Control and Geomorphology

## A.3.1.1 Butte County

#### **Butte County General Plan 2030**

Both the Water Resources Element and the Health and Safety Element of the Butte County General Plan 2030 (Butte County 2010) contain goals and policies relevant to flood control. These goals and policies focus on minimizing risk and property damage from flooding, protection of surface water and groundwater resources and quality, and management of stormwater runoff.

- **Goal W-6** Improve streambank stability and protect riparian resources.
  - Policy W-P6.1 Any alteration of natural channels for flood control shall retain and protect riparian vegetation to the extent possible while still accomplishing the goal of providing flood control. Where removing existing riparian vegetation is unavoidable, the alteration shall allow for reestablishment of vegetation without compromising the floodflow capacity.
  - Policy W-P6.2 Where streambanks are already unstable, as demonstrated by erosion or landslides along banks, tree collapse, or severe in-channel sedimentation, proponents of new development projects shall prepare a hydraulic and/or geomorphic assessment of onsite and downstream drainageways that are affected by project area runoff.
- Goal HS-2 Protect people and property from flood risk.
  - Policy HS-P2.1 The County supports the efforts of regional, State and federal agencies to improve flood management facilities along the Sacramento River while conserving the riparian habitat of the river.
  - o **Policy HS-P2.2** The County supports the efforts of private landowners and public agencies to maintain existing flood management facilities.
  - Policy HS-P2.3 The County supports the Flood Mitigation Plan and the Flooding Mitigation
    Action Plan in the Butte County Multi-Jurisdictional All-Hazard Pre-Disaster Mitigation Plan
    (MHMP).
  - Policy HS-P2.4 Development projects on lands within the 100-year flood zone, as identified on the most current available maps from FEMA (the most current available map at the time of the publication of General Plan 2030 is shown on Figure HS-1), shall be allowed only if the applicant demonstrates that it will not:\*
    - a. Create danger to life and property due to increased flood heights or velocities caused by excavation, fill, roads and intended use.
    - b. Create difficult emergency vehicle access in times of flood.
    - c. Create a safety hazard due to the height, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
    - d. Create excessive costs in providing governmental services during and after flood conditions, including maintenance and repair of public facilities.
    - e. Interfere with the existing water conveyance capacity of the floodway.
    - f. Substantially increase erosion and/or sedimentation.
    - g. Require significant storage of material or any substantial grading or substantial placement of fill that is not approved by the County through a development agreement, discretionary permit, or other discretionary entitlement; a ministerial permit that would result in the construction of a new residence; or a tentative map or parcel map.
    - h. Conflict with the provisions of the applicable requirements of Government Code Sections 65865.5, 65962 or 66474.5.
  - Policy HS-P2.5 The lowest floor of any new construction or substantial improvement within Flood Zones A, AE, AH and shaded Zone X, as shown in Figure HS-1 or the most current maps available from FEMA, shall be elevated 1 foot or more above the 100-year

- flood elevation. (County Flood Ordinance Sec. 26-22). Within urban or urbanizing areas, as defined in Government Code 65007, the lowest floor of any new construction or substantial improvements shall be elevated a minimum of 1 foot above the 200-year flood elevation.
- Policy HS-P2.6 After General Plan 2030 and the Zoning Ordinance are amended to be consistent with the Central Valley Flood Protection Plan, scheduled for adoption in July 2012, the County shall make specific findings prior to approval of a development agreement, subdivision or discretionary permit or other discretionary entitlement, or any ministerial permit that would result in the construction of a new residence. The County shall make findings that it has imposed conditions that will protect the property to the urban level of flood protection, as defined in Government Code Section 65007, in urban and urbanizing areas, or to the national Federal Emergency Management Agency standard of flood protection in nonurbanized areas.
- Goal HS-3 Prevent and reduce flooding.
  - Policy HS-P3.1 Watersheds shall be managed to minimize flooding by minimizing impermeable surfaces, retaining or detaining stormwater and controlling erosion.
  - Policy HS-P3.2 Applicants for new development projects shall provide plans detailing
    existing drainage conditions and specifying how runoff will be detained or retained on-site
    and/or conveyed to the nearest drainage facility and shall provide that there shall be no
    increase in the peak flow runoff to said channel or facility.
  - Policy HS-P3.3 All development projects shall include stormwater control measures and site design features that prevent any increase in the peak flow runoff to existing drainage facilities.
  - **Policy HS-P3.4** Developers shall pay their fair share for construction of off-site drainage improvements necessitated by their projects.
- Goal HS-4 Reduce risks from levee failure.
  - Policy HS-P4.1 The County supports the efforts of regional, State or federal agencies to study levee stability throughout the county, particularly levees that were designed and constructed to provide a minimum 100-year level of protection.
  - Policy HS-P4.2 The County supports the efforts of levee owners and regional, State, or federal agencies to design and reconstruct levees that do not meet flood protection standards (200-year for urban or urbanizing areas, 100-year for all other areas) to bring them into compliance with adopted State and/or federal standards.
  - o **Policy HS-P4.3** New development proposals in levee inundation areas shall consider risk from failure of these levees.

#### **County Ordinance**

The delineation of flood boundaries and adoption of County ordinances regulating development within identified floodplains/floodways are the basic flood management tools that the County uses to identify flood hazards and implement its own flood management program. The Federal Emergency Management Agency's (FEMA's) flood mapping program is a critical component of these efforts. A County ordinance adopted in March 1983 enforced flood hazard prevention, as set forth in Article IV in Chapter 26 of the Butte County Code. The Code assigns authority for enforcement of County flood hazard prevention policy to the floodplain administrator, in this case the Director of

Development Services. The Code relies on FEMA and Flood Insurance Studies (FIS) data, although other studies may supplement these data if the floodplain administrator recommends it and the Board of Supervisors approves it. The Flood Hazard Prevention Ordinance appoints the Department of Development Services to review all applications for new construction or subdivisions within flood hazard areas. The ordinance's basic requirement, in order to reduce flood hazards, is that the lowest floor of any new construction or substantial improvement within Flood Zones A, AE, AH, and shaded Zone X be elevated 1 foot or more above the regulatory flood elevation. Also, it must be shown that development within the floodplain will not raise the existing flood level. There are other criteria for building in flood hazard areas, including flood-proofing nonresidential structures and designing structures to withstand hydrostatic pressures and hydrodynamic loads.

In areas subject to flooding that are proposed for subdivision, the County is required to ensure that:

- All such proposed developments are consistent with the need to minimize flood damage,
- Subdivisions and parcel maps must, as a condition of approval, establish regulatory flood elevations and note same on final maps prior to recordation of the final map,
- Adequate drainage is provided to reduce exposure to flood hazards.
- All public utilities and facilities are located so as to minimize or eliminate flood damage.

#### **Butte County Multi-Jurisdictional All-Hazard Pre-Disaster Mitigation Plan**

The County's principal emergency response plan is the Butte County Multi-Jurisdictional All-Hazard Pre-Disaster Mitigation Plan (Butte County MHMP) (Butte County 2007), adopted in March 2007. The purpose of the plan is to meet the requirements of the Disaster Mitigation Act and thereby maintain continued eligibility for certain hazard mitigation (or disaster loss reduction) programs from FEMA. The plan lays out the strategy that will enable Butte County to become less vulnerable to future disaster losses. The plan reviews the County's capabilities with regard to reducing impacts of natural hazards (e.g., flooding, dam failure) and identifies recommended action items to reduce vulnerability to these hazards. The most relevant section of the plan with respect to flood control issues is the Flooding Mitigation Action Plan. The Flooding Mitigation Action Plan contains a description of flood hazards, a risk assessment, plans and programs to address the hazards, and mitigation goals and strategies for each jurisdiction in Butte County.

In essence, the main goal of the Butte County MHMP with respect to flood control is to protect infrastructure and agriculture from long-term risks of flood, and this goal is to be achieved by implementation of the Flooding Mitigation Action Plan.

#### **Butte County Flood Mitigation Plan**

The County established the Butte County Flood Mitigation Plan (Butte County FMP) (Wood Rodgers 2006) to provide guidance to agencies that protect life, property, and livestock; are involved in land use planning; administer FEMA's National Flood Insurance Program (NFIP); and respond to flood emergencies in Butte County. The Butte County FMP will need to be updated to address new state flood control regulations described above.

#### City of Biggs

Biggs does not have any FEMA-identified flood hazard areas. The elevation of the city from 96+ feet above sea level in the northeast to 86+ feet above sea level near its westerly boundary generally

prevents water accumulation in depths that create dangerous flooding. However, the city of Biggs is subject to inundation if the Thermalito Afterbay levee or the Oroville Dam fails.

#### City of Biggs General Plan 1997-2015

Flood mitigation goals, policies, and programs described in the Public Health and Safety Element of the City of Biggs General Plan 1997–2015 (City of Biggs 1998) include the following.

- Goal 6.2 Minimize the risk of personal injury and property damage resulting from flooding.
  - Policy 6.2.A Develop flood control strategies and improvement plans for the City of Biggs in coordination with RD 833.
  - Policy 6.2.B New development shall not be approved in areas which are subject to flooding without prior review and approval of plans for improvements which provide a minimum flood protection level equal to the 100 year occurrence storm event.
  - **Policy 6.2.C** Development of structures must be in compliance with FEMA standards. All 100 year flood hazards must be completely mitigated through proper design.
  - o **Policy 6.2.D** All new residential development shall be constructed on pads which are at least six inches above the top of curb of the street on which the development fronts.
  - **Policy 6.2.E** New development projects shall be designed to avoid increases in peak storm runoff levels entering RD 833 channels.
  - Program 6.2.1 Encourage the California Department of Water Resources to determine the
    maximum flow capacity for the Feather River and to identify portions of the Feather River
    levees, particularly in the vicinity of Hazelbush Levee, which are subject to failure or
    overtopping during periods of high water flow.

Also see the discussion above for Butte County MHMP, which is applicable to flood control in the city of Biggs.

#### **City of Gridley**

Flooding is a hazard for Gridley, which is in the SBFCA assessment district. The city of Gridley is approximately 1.3 miles west of the 100-year floodplain (as mapped by FEMA) of the Feather River and the levees that exist there. When 200-year floodplain maps for the Gridley area become available from DWR, they must be analyzed to determine whether any areas planned for development under the General Plan are within the 200-year floodplain. If the possibility of flooding does exist from flood levels occurring at intervals of 200 years or less, such measures as necessary must be taken to meet the state law requirements for development in Flood Hazard Zones. Gridley and likely evacuation routes (State Route [SR] 99, SR 70, and SR 162) are located in an area subject to inundation following partial or total failure of Oroville Dam.

#### City of Gridley 2030 General Plan

Flood hazard safety goals and policies described in the Safety Element of the City of Gridley 2030 General Plan (City of Gridley 2010) include the following.

- **Safety Goal 2:** To reduce risks to people and property from flooding.
  - Safety Policy 2.1 The City will use the best available flood hazard information and mapping from regional, state, and federal agencies and use this information to inform land use and public facilities investment decisions.
  - o **Safety Policy 2.2** The City will regulate development within floodplains in accordance with state and federal requirements.
  - o **Safety Policy 2.3** New development shall provide an evaluation of potential flood hazards and demonstrate compliance with state and federal flood standards prior to approval.

Also see the discussion above for Butte County MHMP, which is applicable to flood control in the city of Gridley.

## A.3.1.2 Sutter County

#### **Sutter County General Plan**

The Public Health and Safety Element of the Sutter County General Plan (Sutter County 2010) contains goals and policies relevant to flood control. These goals and policies focus on minimizing risk and property damage from flooding, protection of surface water and groundwater resources and quality, and stormwater runoff management. They also presently reflect the requirements established by SB 5 pertaining to planning and other efforts necessary ultimately to provide for 200-year flood protection.

- **Goal PHS 1** Minimize the potential for loss of life, personal injury and property damage associated with floods.
  - **PHS 1.1** NFIP. Continue to participate in the National Flood Insurance Program and the Community Rating System.
  - PHS 1.2 Minimize Risk of Flood Damage. Require a minimum of 100-year flood protection and regulate development in accordance with local, State, and federal requirements to avoid or minimize the risk of flood damage.
  - O PHS 1.3 Flood Protection for New Development. Require new development in urban and/or urbanizing areas to provide 200-year flood protection within three years of adoption of the Central Valley Flood Protection Plan in accordance with state regulations, and require new development outside urban or urbanizing areas to provide 100-year flood protection in accordance with Federal regulations.
  - o **PHS 1.4** Development in Dam Inundation Areas. Require new development located in dam inundation areas to consider the risks from dam failure.
  - PHS 1.5 Essential Facilities. Require that new essential public facilities (e.g., hospitals, health care facilities, emergency shelters, fire stations, etc.) be located, when feasible, outside of flood hazard zones, as defined by FEMA, or designed to maintain the structural and operational integrity of the facility during flooding events.
  - PHS 1.6 Inter-Agency Coordination. Coordinate efforts with local, regional, State, and federal agencies to maintain and improve the existing levee system to protect life and property.

#### **County Ordinance**

As a participant in the NFIP, Sutter County is required to adopt and enforce a floodplain management ordinance that minimizes future flood risks to new or existing construction. The Floodplain Management Ordinance (Chapter 1780 of the Sutter County Codes and Ordinances):

- Restricts land use in flood prone areas.
- Requires flood protection measures at the time of initial construction for uses that are vulnerable to floods.
- Controls the alteration of natural floodplains.
- Controls activities that may increase flood damage.
- Prevents or regulates unnatural diversions of floodwaters that could increase flood hazards in other areas.

The current Floodplain Management Ordinance was adopted in October 2008. The ordinance refers to the revised FIRMs dated December 2, 2008, and all subsequent amendments and/or revisions (1780-320). The ordinance will be amended, as necessary, to reflect minor changes (including referencing the revised FIRMs) sometime between the Letter of Final Determination (August 2011) and the effective date of the new FIRMs (February 2012).

#### Final Yuba City-Sutter County, California Multi-Hazard Mitigation Plan

The County's principal emergency response plan is the Final Yuba City–Sutter County, California Multi-Hazard Mitigation Plan (AMEC 2007), adopted in January 2008. The purpose of the plan is to meet the requirements of the Disaster Mitigation Act and thereby maintain continued eligibility for certain hazard mitigation (or disaster loss reduction) programs from FEMA. The plan lays out the strategy that will enable Sutter County to become less vulnerable to future disaster losses. The plan reviews the County's capabilities with regard to reducing effects of natural hazards (e.g., flooding, dam failure) and identifies recommended action items to reduce vulnerability to these hazards. The plan addresses the unincorporated county, as well as the cities of Yuba City and Live Oak, and six participating districts: the Gilsizer County Drainage District, Levee District 1, and RDs 1001, 1500, 70, and 1660.

The plan identifies the following goals and objectives related to flood hazard protection, but it does not contain any specific policies.

- **Goal 1:** Improve community awareness about hazards that threaten our communities and identify appropriate actions to minimize their impacts upon people and property.
  - Objective 1.1: Increase public awareness about the nature and extent of hazards they are exposed to, where they occur, and recommend responses to identified hazards (create/continue an outreach program, provide educational resources and training)
- **Goal 2:** Minimize Risk and Vulnerability to Flood Hazards
  - o **Objective 2.1:** Improve the integrity of the levees to at least 100-year flood protection
  - Objective 2.2: Eliminate open drainage ditches within 20' of traveled roadways within urbanized areas
  - o **Objective 2.3:** Minimize damage/loss to roads

- o **Objective 2.4:** Identify/Protect evacuation routes
- Objective 2.5: Reduce localized flooding from storm events
- o **Objective 2.6:** Provide Protection for community critical facilities

## **City of Yuba City**

#### Yuba City General Plan

The Noise and Safety Element of the Yuba City General Plan (City of Yuba City 2004) contains guiding policies and implementing policies relevant to flood control. These guiding and implementing policies focus on minimizing risk and property damage from flooding, protection of surface water and groundwater resources and quality, and management of stormwater runoff.

- **9.3-G-1** Protect the community from risks to lives and property posed by flooding and stormwater runoff.
- **9.3-G-2** Collect and dispose of storm water in a safe and efficient manner.
- **9.3-G-3** Ensure that dams and levees are properly maintained for long-term flood protection.
- **9.3-I-1** Implement the drainage improvements identified in the City's Capital Improvement Program.
- **9.3-I-2** Continue to work with the U.S. Army Corps of Engineers to implement levee improvements on the Feather River. Incorporate features in the levee system to ensure flood protection and at the same time improve the connection between the city and the river.
- 9.3-I-3 When necessary, require new development to prepare hydrologic studies to assess storm runoff impacts on the local and subregional storm drainage systems and, if warranted, require new development to provide adequate drainage facilities and to mitigate increases in storm water flows and/or volume to avoid cumulative increases in downstream flows.

Developers shall provide an assessment of a project's potential impacts on the local and subregional storm drainage systems, so that the City can determine appropriate mitigation to ensure that system capacity and peak flow restrictions are not exceeded.

- 9.3-I-4 Restrict new development in areas subject to 100 year flooding, as shown in Figure 9-6.
- **9.3-I-5** Provide information to property owners about the availability of flood insurance.

This policy can be implemented with counter handouts and stories in the City's newsletter and pages on the City's website.

• **9.3-I-6** As new development occurs, work with Sutter County to establish drainage areas that serve the entire Planning Area.

A new drainage study may be appropriate to determine the best means to establish drainage areas that would safely channel runoff and provide protection from flooding.

• **9.3-I-7** Utilize parks for the secondary purpose of storm water storage.

#### Final Yuba City-Sutter County, California Multi-Hazard Mitigation Plan

See the Final Yuba City–Sutter County, California Multi-Hazard Mitigation Plan (AMEC 2007) and discussion above under Sutter County for relevant goals adopted by Yuba City that apply to the proposed project area.

## City of Live Oak

#### City of Live Oak 2030 General Plan

The Public Utilities, Services, and Facilities Element and the Public Safety Element of the City of Live Oak 2030 General Plan (City of Live Oak 2010) contain goals, policies, and implementation programs relevant to flood control. These goals, policies, and implementation programs focus on minimizing risk and property damage from flooding, protection of surface water and groundwater resources and quality, and stormwater runoff management.

Within the Public Utilities, Services, and Facilities Element, the following flood protection goal, policies, and implementation program are included.

- **Goal PUBLIC-6.** Protect property and public health through adequate flood protection.
  - Policy PUBLIC-6.1 The City will coordinate with ongoing regional efforts to verify and improve flood protection for the Planning Area, consistent with state and federal regulations.
  - o **Policy PUBLIC-6.2** The City will assess fees for new development on a fair-share basis to fund regional flood protection improvements needed to meet state and federal standards.
  - o **Policy PUBLIC-6.3** The City will proactively identify and take advantage of regional, state, and federal funding that may be available for use in flood protection improvements.
    - Implementation Program PUBLIC-6.1

The City will continue its participation with the regional flood protection joint powers authority addressing the assessment and improvement of levees on the west side of the Feather River to meet state and federal standards.

Within the Public Safety Element, the following flood protection goal, policies, and implementation programs are included.

- Goal PS-2. Minimize the loss of life and damage to property caused by flood events.
  - Policy PS-2.1 The City will coordinate with the Sutter Butte Flood Control Agency to ensure
    that flood control facilities protecting Live Oak's Planning Area from flood risks to the City
    are well maintained and capable of protecting existing and proposed structures from
    flooding, in accordance with state law.
  - Policy PS-2.2 The City will regulate development within floodplains according to state and federal requirements to minimize human and environmental risks and maintain the City's eligibility under the National Flood Insurance Program.
  - Policy PS-2.3 The City will require evaluation of potential flood hazards before approving development projects.

- Policy PS-2.4 The City will require applicants for development to submit drainage studies
  that adhere to City stormwater design requirements and incorporate measures from the
  City's master drainage plan to prevent on- or off-site flooding.
- Policy PS-2.5 New development shall be required to be consistent with regional flood control improvement efforts. New development shall contribute on a fair-share basis to regional solutions to improve flood protection to meet state and federal standards.
- Policy PS-2.6 The City will use the most current flood hazard and floodplain information from state and federal agencies (such as the State Department of Water Resources, the Federal Emergency Management Agency, and the Army Corps of Engineers) as a basis for project review and to guide development in accordance with federal and state regulations.
- Policy PS-2.7 As feasible, new development should incorporate stormwater treatment practices that allow percolation to the underlying aquifer and minimize off-site surface runoff (and therefore flooding).

#### • Implementation Program PS-1

The City will continue its participation with the regional flood protection joint powers authority addressing the assessment and improvement of levees on the west side of the Feather River to meet federal and state standards. The City will implement development impact fees to provide for necessary levee studies and improvement programs in coordination with the regional flood control joint powers authority. The City will proactively identify and take advantage of federal, state, and regional funding that may be available for use in flood protection improvements.

#### • Implementation Program PS-3

Consistent with state law, the City will consult with the Central Valley Flood Protection Board and local flood protection agencies serving the Planning Area, to obtain updated floodway and floodplain maps, data, and policies. When this information is available, if necessary, the City will update the General Plan and revise all applicable development standards, including the zoning code. Subdivision approvals, development agreements, permits, and other City entitlements will incorporate these revised City policies and regulations.

#### Implementation Program PS-4

If necessary, the City will update the General Plan to incorporate 200-year floodplain mapping from the California Department of Water Resources and Central Valley Flood Protection Board, once available.

#### • Implementation Program PS-5

In review of new development projects, require disclosure of risk where proposed development would occur in flood risk areas. This disclosure may include notifying new residents in these areas and encouraging purchase of appropriate insurance.

## A.3.2 Water Quality and Groundwater Resources

## A.3.2.1 Butte County

#### **Butte County 2030 General Plan**

The Butte County General Plan 2030 was adopted in October 2010 and became effective on November 30, 2010 (Butte County 2010). The plan includes several goals and policies related to water resources. For example, the plan contains the following goal related to water quality.

• Goal W-1 Maintain and enhance water quality.

The goal is followed by policies, such as integrating county planning and programs with other watershed planning efforts, including BMPs, guidelines, and policies of the Central Valley RWQCB, and identifying and eliminating or minimizing all sources of existing and potential point and non-point sources of pollution to ground and surface waters.

#### **Butte County Stormwater Management Program**

Butte County has been covered under an NPDES Phase II MS4 General Permit since 2004. Currently, Butte County's MS4 General Permit covers the urbanized unincorporated areas within and around the City of Chico. As part of permit compliance, the Butte County Department of Public Works implements a stormwater management plan (SWMP).

## City of Biggs

#### City of Biggs General Plan 1997-2015

The City of Biggs is currently involved in the general plan update process. The existing City of Biggs General Plan 1997–2015 was adopted in January 1998 (City of Biggs 1998). This plan contains goals and policies related to water resources. For example, the Open Space and Conservation Element of the plan highlights the following goal related to water resources.

• **GOAL 5.4:** Protect the quantity and quality of community water supplies and avoid degradation of water quality downstream from Biggs.

#### **City of Gridley**

#### City of Gridley 2030 General Plan

The City of Gridley specifies water-related policies in various sections of the City of Gridley 2030 General Plan (City of Gridley 2010). These policies are primarily outlined in the Public Services and Facilities Element. For example, the plan includes the following water resources goal.

• **Public Facilities Goal 1:** To maintain safe and reliable ongoing water supply.

## A.3.2.2 Sutter County

#### Sutter County General Plan—Public Draft

The county is in the process of updating its general plan that was adopted in 1996. The public draft (September 2010) is available on the County's website (Sutter County 2010). The draft general plan

contains a number of goals and related policies related to water resources. For example, the Environmental Resources Element includes the following goal.

• Goal ER 6: Preserve and protect the County's surface water and groundwater resources.

The goal is followed by several policies consistent with achieving this goal, such as integrated water management programs, surface water resource protection, groundwater protection and sustainability, and stormwater quality.

#### Yuba City-Sutter County Stormwater Management Program

Sutter County and the City of Yuba City are co-permittees of the NPDES Phase II MS4 General Permit, which requires the development of a SWMP. Adopted in 2003, the Yuba City-Sutter County SWMP is a combined effort of the city and county, which addresses stormwater discharges to the Sutter Bypass and the Feather River through pumping stations located along several levees. This SWMP describes the approach to reduce stormwater pollution. It includes the required six minimum control measures required under the NPDES Phase II MS4 program: public education and outreach; public participation/involvement; illicit discharge detection and elimination; construction site runoff control; post-construction runoff control; and pollution prevention/good housekeeping (City of Yuba City and Sutter County 2003).

## **City of Yuba City**

#### Yuba City General Plan

The City of Yuba City General Plan was updated in April 2004 (City of Yuba City 2004). The Environmental Conservation Section has numerous goals, or guiding policies, and implementing policies related to water quality. Guiding policies include protecting and enhancing surface water and groundwater resources and enhancing the natural condition of the Feather River waterway. Related implementing policies include complying with the Central Valley RWQCBs regulations and standards to maintain and improve the quality of both surface water and groundwater resources; continuing to control stormwater pollution and protect the quality of the city's waterways by preventing oil and sediment from entering the river; and requiring new construction to utilize BMPs such as site preparation, grading, and foundation designs for erosion control to prevent sediment runoff into waterways, specifically the Feather River.

### City of Live Oak

#### City of Live Oak 2030 General Plan

The City of Live Oak 2030 General Plan was adopted in May 2010 (City of Live Oak 2010). The city's plan contains several water goals, policies, and implementation programs. For example, the Public Utilities, Services, and Facilities Element of the plan includes the following goal related to water resources.

• **Goal PUBLIC-1:** Provide a safe and reliable water supply and delivery system.

# A.3.3 Geology, Soils, Seismicity, and Mineral Resources

## A.3.3.1 Butte County

#### **Butte County General Plan 2030**

The Health and Safety Element of the Butte County General Plan 2030 (Butte County 2010) includes the following goals and policies related to geologic and seismic hazards.

- **Goal HS-6** Reduce risks from earthquakes.
  - Policy HS-P6.1 Appropriate detailed seismic investigations shall be completed for all public and private development projects in accordance with the Alquist-Priolo Earthquake Fault Zoning Act.\*
  - Policy HS-P6.2 Geotechnical investigations shall be completed prior to approval of schools, hospitals, fire stations and sheriff stations, as a means to ensure that these critical facilities are constructed in a way that mitigates site-specific seismic hazards.
  - **Action HS-A6.1** Continue to require applicants to seismically retrofit existing homes where required under existing building codes.
- Goal HS-7 Reduce risks from steep slopes and landslides.
  - Policy HS-P7.1 Site-specific geotechnical investigations shall be required to assess landslide potential for private development and public facilities projects in areas rated "Moderate to High" and "High" in Figure HS-4 or the most current available mapping.\*
- Goal HS-8 Reduce risks from erosion.
  - Policy HS-P8.1 Site-specific geotechnical investigations shall be required to assess erosion potential for private development projects and public facilities in areas rated "Very High" in Figure HS-5 or the most current available mapping.\*
- **Goal HS-9** Reduce risks from expansive soils.
  - Policy HS-P9.1 Site-specific geotechnical investigations shall be required to assess risks from expansive soils for private development projects and public facilities in areas rated "High" in Figure HS-6 or the most current available mapping.\*
- **Goal HS-10** Avoid subsidence from groundwater withdrawal.
  - o **Policy HS-P10.1** Continue to work with water providers and regulatory agencies to ensure that groundwater withdrawals do not lead to subsidence problems.
  - Policy HS-P10.2 Existing programs to monitor potential subsidence activity shall be supported.

The Agriculture Element and Area and Neighborhood Plans Element of the plan include the following goal, policies, and objectives related to soils.

- **Goal AG-1** Maintain, promote and enhance Butte County's agriculture uses and resources, a major source of food, employment and income in Butte County.
  - Policy AG-P1.1 The County supports State and federal legislation designed to conserve soil and protect agricultural land.

- Policy AG-P1.2 The County supports agricultural education and research at Butte County educational institutions.
- **Policy AG-P1.3** Continue to work with landowners in establishing new and maintaining existing Williamson Act contracts.
  - **Objective D2N-06.2** Protection of soil resources.
    - a. To eliminate potential for soil erosion or degradation of its agricultural productivity.
- Policy D2N-P6.5 Require standard erosion-control measures and construction practices to minimize soil erosion.
- o **Policy D2N-P6.6** Protect agricultural lands which currently produce, or have the potential to produce, from encroaching urban uses.

The Conservation and Open Space Element and Area and Neighborhood Plans Element contain the following goals, policies, actions, and objectives related to mineral resources.

- **Goal COS-12** Protect economically viable mineral resources and related industries while avoiding land use conflicts and environmental impacts from mining activities.
  - o **Policy COS-P12.1** Sufficient aggregate resources to meet the County's fair share of future regional needs shall be conserved.
  - Policy COS-P12.2 Mineral resources identified by the State to be of regional or statewide significance for mineral resource extraction shall be conserved.\*
  - o **Policy COS-P12.3** Permitted uses on lands containing and adjacent to important mineral resources shall be restricted to those compatible with mineral extraction, except in cases where such uses offer public benefits that outweigh those of resource extraction.
  - Policy COS-P12.4 Prior to approval of any new or expanded mining operation, the applicant shall demonstrate that the operation will not create significant nuisances, hazards or adverse environmental effects.
  - o **Policy COS-P12.5** New mineral haul routes shall avoid landslides, highly erodible soils, residential areas and schools, when feasible.
  - Policy COS-P12.6 Discretionary development projects in the vicinity of permitted mining extraction sites or along existing haul routes shall record a notice of the right to mine against the property for which a discretionary permit is sought. The notice shall advise owners and subsequent interests in ownership that the existing mining operation has a permitted right to continued mining operations.
  - Policy COS-P12.7 Mined property shall be left in a condition suitable for reuse in conformance with the General Plan land use designations and in accordance with the California Surface Mining and Reclamation Act (SMARA).
    - Action COS-A12.1 Apply zoning regulations permitting extraction and processing as a conditional use on any lands classified by the State Mining and Geology Board as Mineral Resource Zone 2 (MRZ-2) or Scientific Zone (SZ).
- **Goal D2N-6** Utilize and develop natural resources so as to protect those resources and eliminate exposure of persons and property to environmental hazards.
  - o **Objective D2N-06.1** Management of mineral resources.

- **a.** Efficiently utilize mineral resources and ensure their continued supply.
- o **Policy D2N-P6.1** Encourage proper development and management of sand and gravel.
- **Policy D2N-P6.2** Ensure that all commercial development of sand and gravel deposits is compatible with nearby land uses.
- Policy D2N-P6.3 Ensure that extraction operations of sand and gravel adhere to all environmental quality regulations of the County and State.
- Policy D2N-P6.4 Locate commercial, industrial, open space and agricultural uses adjacent to prime mineral resource areas to avoid conflicts between mineral production activities and present or planned residential and institutional land uses.

#### **County Ordinance**

Many California counties and cities have grading and erosion control ordinances. These ordinances are intended to control erosion and sedimentation caused by construction activities. As part of the grading permit, a project applicant must submit a grading and erosion control plan, project vicinity and site maps, and other supplemental information. Standard conditions in the grading permit include an extensive list of BMPs similar to those contained in a SWPPP.

The purpose of the grading portion of the Butte County Grading and Mining Ordinance is "the control of erosion and siltation, the enhancement of slope stability, the protection of said resources and the prevention of related environmental damage by establishing standards and requiring permits for grading." In general, a grading permit is required for any earthmoving activities involving 50 cubic yards or more of material. Depending on the project, the county may require environmental review, engineering plans and specifications, soils engineering report, and/or an erosion and sediment control plan.

The purpose of the mining portion of the Butte County Grading and Mining Ordinance is to comply with the requirements of SMARA, encourage production and conservation of mineral resources in balance with other beneficial uses, and prevent or minimize damage to the environment. Applicants must file a permit application with the county, submit mining and reclamation plans, and provide financial assurances. The application then goes through a review and public hearing process before a determination is made by the Butte County Planning Commission.

#### City of Biggs

#### City of Biggs General Plan

The Public Health and Safety Element of the City of Biggs General Plan (City of Biggs 1998) includes the following goal, policies, and program related to geologic and seismic hazards.

- Goal 6.5 Minimize the threat of personal injury and property damage due to seismic and geologic hazards.
  - Policy 6.5.A Consider the potential for expansive soils and earthquake related hazards when reviewing applications for developments.
  - o **Policy 6.5.B** A soils report, prepared by a licensed soils engineer, shall be required for all residential subdivisions and development projects. Soils reports shall evaluate shrink/swell

and liquefaction potential of sites and recommend measures to minimize unstable soil hazards.

- o **Policy 6.5.C** Applications for projects which extract groundwater, oil, or gas shall include a report evaluating the potential for resulting subsidence. Reports shall discuss appropriate mitigation measures to reduce the potential for subsidence.
- **Policy 6.5.D** The City encourages owners of buildings which are subject to seismic hazards to pursue structural improvements to remedy seismic related hazards.
- **Program 6.5.E** The City shall pursue funding options to assist property owners with costs related to seismic safety structural improvements.

The Public Health and Safety Element of the plan contains the following policies related to mineral resources.

- **Goal 5.1:** Promote and protect the continued viability of agriculture surrounding Biggs.
  - o **Policy 5.1.D** No mineral, gas or other natural resource extraction shall occur within the City limits of Biggs without prior review and approval of the activity by the City.
  - **Policy 5.1.E** Ensure that any mineral extraction activities within the Biggs planning area to conform with the State Mining and Reclamation Act (SMARA) requirements, including financial assurances and reclamation plans.

## **City of Gridley**

#### City of Gridley 2030 General Plan

The Safety Element of the City of Gridley 2030 General Plan (City of Gridley 2010) includes the following goal, policies, and strategies related to geologic and seismic hazards.

- **Safety Goal 1:** To reduce risks to people and property from geologic hazards and soils conditions.
  - Safety Policy 1.1 New development shall implement state and local building code requirements, including those related to structural requirements and seismic safety criteria in order to reduce risks associated with seismic events and unstable and expansive soils.
  - Safety Policy 1.2 New developments that could be adversely affected by geological and/or soil conditions shall include project features that minimize these risks.
  - Safety Policy 1.3 The City will not allow new water well sites to be located in areas where subsidence could occur as a result of water well operation, or where the potential for subsidence could increase as a result of operation of a water well.
    - **Safety Implementation Strategy 1.1**

The City will continue to enforce the most recent statewide building code requirements.

**Safety Implementation Strategy 1.2** 

The City will require geotechnical evaluation and recommendations before development or construction of buildings meant for public occupancy in geologic hazard areas may proceed. Such evaluations will be required to focus on potential hazards related to liquefaction, erosion, subsidence, seismic activity, and other relevant geologic hazards

and soil conditions for development. New development would be required to incorporate project features that avoid or minimize the identified hazards to the satisfaction of the City.

The City of Gridley 2030 General Plan states that there are no significant mineral resources in the Gridley area and therefore does not address the topic (City of Gridley 2010:6–9).

## A.3.3.2 Sutter County

#### **Sutter County General Plan Policy Document**

The Sutter County General Plan Policy Document (Sutter County 1996a) includes the following goal, policies, and program related to geologic and seismic hazards.

- **Goal 7.B** To minimize the risk of personal injury and property damage due to seismic and geological hazards.
  - **Policy 7.B-1** Where geologic hazards exist from landslides, the County should designate the land as open space or agriculture.
  - o **Policy 7.B-2** The County may require the preparation of a soils engineering and/or geologic-seismic analysis prior to permitting development in areas of geologic or seismic hazards (i.e., ground shaking, landslides, liquefaction, expansive soils).

#### • Implementation Program

**7.1** The County shall continue to enforce provisions of the Uniform Building Code which address seismic design criteria.

Responsibility: Community Services Department

This document contains the following goal, policies, and implementation program related to mineral resources.

- Goal 4.H To encourage commercial resource extraction activities in locations where environmental, aesthetic, and adjacent land use compatibility impacts can be adequately mitigated.
  - o **Policy 4.H-1** The County shall require that the development of gas and mineral resources be designed and conducted in a manner to minimize incompatibility with nearby land uses.
  - o **Policy 4.H-2** The County shall prohibit the establishment of any new mining operations in the Sutter Buttes.
  - o **Policy 4.H-3** The County shall require that all new gas and mineral extraction projects be designed to provide a buffer between existing and/or likely adjacent uses.
  - o **Policy 4.H-4** The County shall require that all mining operations prepare and implement reclamation plans and provide adequate security to guarantee the proposed reclamation.
  - Policy 4.H-5 The County shall require that gas, and mineral extraction projects incorporate
    adequate measures to minimize impacts to local residents, county roadways, services and
    facilities.

#### • Implementation Program

**4.7** The County shall review and revise as necessary its ordinances governing gas and mineral extraction projects.

Responsibility: Community Services Department

#### **Sutter County General Plan**

The *Sutter County General Plan* (Sutter County 2011) includes the following goal and policies related to geologic and seismic hazards.

- Goal PHS 2 Minimize the risk of personal injury and property damage due to geologic and seismic hazards and adverse soil conditions.
  - PHS 2.1 Review Standards. Review and enforce seismic and geologic safety standards and require the use of best management practices in site design and building construction methods. (PHS 2-A)
  - PHS 2.2 Minimize Exposure to Geologic Hazards. Minimize development in areas where geologic hazards exist from landslides and erosion.
  - O PHS 2.3 Site-Specific Geotechnical Analysis. Require the preparation of a County approved site-specific geotechnical analysis prior to approval of development in areas where the potential for geologic or seismic hazards exists (e.g., ground shaking, landslides, liquefaction, expansive soils, steep slopes, subsidence, and erosion) and incorporate recommended project features to avoid or minimize the identified hazards.
  - PHS 2.4 Essential Facilities. Promote the upgrade, retrofitting, and/or relocation of existing essential facilities (e.g., hospitals, schools, law enforcement and fire stations, etc.) that do not meet current building code standards and are within areas susceptible to seismic or geologic hazards.

The plan contains the following goal and policies related to mineral resources.

- Goal ER 5 Encourage commercial resource extraction activities in locations where environmental, aesthetic, and adjacent land use compatibility impacts can be adequately mitigated.
  - **ER 5.1** Significant Resources. Conserve and protect mineral resources that may be identified by the state as a significant resource to allow for their continued use in the economy.
  - ER 5.2 Compatible Operations. Require that gas and mineral resource extraction activities be designed and operated to minimize incompatibilities with nearby land uses and incorporate features that buffer existing and planned adjacent uses. Extraction activities shall incorporate adequate measures to minimize impacts to local residents, county roadways, services, facilities, and the environment.
  - ER 5.3 No New Operations in Sutter Buttes. Prohibit the establishment of any new mining operations in the Sutter Buttes, which is defined as the area within the Sutter Buttes Overlay Zone.
  - **ER 5.4** Reclamation. Encourage disturbed mined areas to be reclaimed concurrent with mining (i.e., phased reclamation), and require reclamation that is consistent with an adopted reclamation plan, as appropriate, and in conjunction with the Surface Mining and

Reclamation Act, and County and state standards to a condition that is sensitive to the natural environment and where subsequent, beneficial uses can occur.

## **County Codes and Ordinances**

The purpose of the County of Sutter Land Grading and Erosion Control (Chapter 1770) ordinances is to minimize damage or degradation to waterways caused by excavation-related activities and comply with the provisions of NPDES permits covering the activities of the county issued by the RWQCB.

A grading permit is required in the unincorporated portion of the county for:

grading to (1) grade, fill, excavate, store or dispose of 350 cubic yards or more of soil or earthly material, or (2) clear and grub one acre or more of land, or (3) grade, fill, or store 50 cubic yards or more of soil or earthly material in a designated floodway, or (4) relocate, reshape, re-route, obstruct, or alter an existing water course.

The purpose of the Sutter County Surface Mining and Reclamation Code is to "provide local procedures, processes and responsibilities for the implementation of SMARA and other State regulations pertaining to surface mining in Sutter County." Applicants must file a permit application with the county, submit mining and reclamation plans, and provide financial assurances. These documents are reviewed by the State Mining and Geology Board and the Sutter County Planning Commission. Approval is granted or denied by the planning commission.

Sutter County and the City of Yuba City adopted the 2010 California Building Code as part of their building standards. The Butte County Building Design Criteria incorporated the 2007 California Building Code.

#### City of Yuba City

#### **Yuba City General Plan**

The City of Yuba City General Plan (City of Yuba City 2004) contains the following policies related to geologic and seismic hazards.

- **Guiding Policy 9.2-G-1** Minimize risks of property damage and personal injury posed by geologic and seismic hazards.
  - o **Implementing Policy 9.2-I-1** Review proposed development sites at the earliest stage of the planning process to locate any potential geologic or seismic hazards. Following receipt of a development proposal, engineering staff shall review the plans to determine whether a geotechnical review is required. If the review is required, then the applicant shall be referred to geotechnical experts for further evaluation.
  - o **Implementing Policy 9.2-I-2** Prohibit structures intended for human occupancy within 50 feet of an active fault trace. Although no active faults are located within the Planning Area, this policy would apply if a new fault was discovered. It is also the City's intent to discourage homes, offices, hospitals, public buildings, and other similar structures over the trace of an inactive fault and to allow uses within setback areas that could experience displacement without undue risk to people and property.
  - o **Implementing Policy 9.2-I-3** Require comprehensive geologic and engineering studies of critical structures regardless of location. Critical structures are those most needed following

a disaster or those that could pose hazards of their own if damaged. They include utility centers and substations, water reservoirs, hospitals, fire stations, police and emergency communications facilities, and bridges and overpasses.

- o **Implementing Policy 9.2-I-4** Require preparation of a soils report as part of the development review and/or building permit process for development proposed in the area depicted with expansive soils. The southwest corner of the City is underlain by expansive soils that must be taken into account during building design if cracking and settling of structures are to be minimized. The report would not be necessary when soil characteristics are known, and the City's Building Official or Public Works Director determines it is not needed.
- o **Implementing Policy 9.2-I-5** Provide information for property owners to rehabilitate existing buildings using construction techniques to protect against seismic hazards. The City-adopted Uniform Building Code specifies seismic standards for new construction, as well as for additions or expansions to buildings. It is in the community's best interest to do all that is necessary to ensure that all structures meet current seismic standards.

#### City of Live Oak

#### City of Live Oak 2030 General Plan

The Public Safety Element of the City of Live Oak 2030 General Plan (City of Live Oak 2010) contains the following goal and policies related to geologic and seismic hazards.

- **Goal PS-1.** Design buildings to prevent property damage and injury from hazards.
  - o **Policy PS-1.1** All new buildings in the City shall be built under the seismic requirements of the California Building Code.
  - o **Policy PS-1.2** The City will encourage the retrofitting of older buildings to current safety standards, as specified in locally applicable fire and building codes.
  - o **Policy PS-1.3** New development shall ensure adequate water flow for fire suppression as required by City Public Works Improvement Standards.

The Conservation and Open Space Element contains the following goal and policy related to mineral resources.

- **Goal MINERAL-1.** Protect soil and mineral resources in the Live Oak Study Area consistent with other environmental, social, and economic goals.
  - Policy Mineral-1.1 The City will coordinate with the state to incorporate, as necessary, any
    policies for conservation and possible future extraction of mineral or soil resources of
    regional or statewide significance.

## A.3.3.3 Yuba County

#### **County Ordinance Code**

Title X, Buildings and Construction, of the Yuba County Ordinance Code, outlines all provisions relevant to grading and construction within the county. Chapter 10.05 addresses standards of construction, Chapter 10.30 addresses construction in areas of flood hazard, and Chapter 11.25 provides regulations related to grading and excavations. Chapter 11.25 also sets forth means for

controlling soil erosion and problems associated with excavations, grading, and fill. The provisions provided in this chapter apply to the unincorporated areas of Yuba County.

# A.3.4 Traffic, Transportation, and Navigation

## A.3.4.1 Butte County

#### **Butte County General Plan**

The Circulation Element of the *Butte County General Plan*, adopted in 2010, is concerned with the safe and efficient movement of people and goods in and around the County. The element contains background circulation information for a wide range of existing and planned transportation modes, including roads, transit, non-motorized transportation, rail and aviation. To ensure that the county's transportation system can accommodate growth anticipated during the 20-year planning period, the Circulation Element works closely with the Land Use Element of the general plan, as required by Section 65302(b) of the California Government Code. The following goals and policies are applicable to traffic.

- **Goal CIR-6** Support a balanced and integrated road and highway network that maximizes the mobility of people and goods in a safe, efficient manner.
  - Policy CIR-P6.1 The level of service for County-maintained roads within the
    unincorporated areas of the county but outside municipalities' sphere of influences (SOI)
    shall be level of service C or better during the PM peak hour. Within a municipality's SOI, the
    level of service shall meet the municipality's level of service policy.
  - o **Policy CIR-P6.2** The level of service on State Highways should at least match the concept level of service for the facility, as defined by Caltrans.

Butte County roadway level of service (LOS) thresholds are provided in Table A-2, below.

Table A-2. Butte County Roadway Level of Service Thresholds

Facility Type	A	В	С	D	Е	F
Minor 2–Lane Highway	0–900	901-2,000	2,001-6,800	6,801–14,100	14,101–17,400	>17,400
Major 2–Lane Highway/ Expressway	0–1,200	1,201–2,900	2,901–7,900	7,901–16,000	16,001–20,500	>20,500
4–Lane, Multi–Lane Highway/ Expressway	0–10,700	10,701–17,600	17,601–25,300	25,301–32,800	32,801–36,500	>36,500
2–Lane Arterial	_	_	0–9,700	9,701–17,600	17,601–18,700	>18,700
4-Lane Arterial, Undivided	_	_	0–17,500	17,501–27,400	27,401–28,900	>28,900
4-Lane Arterial, Divided	_	_	0-19,200	19,201–35,400	35,401–37,400	>37,400
6-Lane Arterial, Divided	_	_	0-27,100	27,101–53,200	53,201-56,000	>56,000
3–Lane Arterial, 1–Way Roadway	_	_	0–13,100	13,101–20,600	20,601–21,700	>21,700
2–Lane Freeway	0-11,110	11,111-20,100	20101–28,800	28,801-35,700	35,701–40,100	>40,100
2–Lane Freeway + Auxiliary Lane	0–14,100	14,101–25,500	25,501–36,400	36,401–44,900	44,901–50,350	>50,350
3–Lane Freeway	0-17,000	17,001–30,800	30,801–44,000	44,001–54,100	54,101–60,600	>60,600
3–Lane Freeway + Auxiliary Lane	0–20,100	20,101–36,400	36,401–51,800	51,801–63,500	63,501–71,000	>71,000
4–Lane Freeway	0-23,200	23,201–42,000	42,001–59,500	59,501-72,800	72,801–81,400	>81,400
Major 2-Lane Collector	_	_	0-5,550	5,551–11,800	11,801–15,200	>15,200

Source: Transportation Research Board, Highway Capacity Manual 2000.

## City of Biggs

#### City of Biggs General Plan

The City of Biggs General Plan 1997–2015 outlines goals, policies, and guidelines that relate to transportation and circulation within the city. The following policy in the Circulation Element is applicable to traffic.

 Policy 2.1.G Functional performance of roadways throughout the community shall be maintained at a Level of Service C or better and shall conform with the Roadway Environmental Capacity as defined in Table 2.3 of this Element.

## City of Gridley

#### City of Gridley 2030 General Plan

The *City of Gridley 2030 General Plan* outlines goals, policies, and guidelines that relate to transportation and circulation within the city. The following goals and policies in the Circulation Element are applicable to traffic.

- Circulation Goal 4: To improve connectivity in existing developed parts of Gridley.
  - Circulation Policy 4.2: The City will increase connectivity in the Highway 99 corridor by requiring new east-west and north-south connections in new developments, to the maximum extent feasible.

- **Circulation Goal 8**: To provide efficient and effective freight systems that serve Gridley's businesses, while avoiding negative impacts to residents
  - Circulation Policy 8.2: The City will restrict truck traffic to Highway 99, Magnolia Avenue, West Biggs-Gridley Road, Ord Ranch Road, South Avenue, East Gridley Road, West Liberty Road, and streets in areas designated for Industrial and Agricultural Industrial development (see Exhibit Circulation-7). Trucks may go by direct route to and from restricted streets, where required for the purpose of making pickups and deliveries of goods, but are otherwise restricted to truck routes.

## A.3.4.2 Sutter County

#### 2011 Sutter County General Plan and General Plan Technical Background Report

The 2011 Sutter County General Plan outlines goals, policies, and guidelines that relate to transportation and circulation within the county (Sutter County 2011: 6-9). The following goals and policies are applicable to traffic.

- **Goal M2** Provide for the long-range planning and development of the County's roadway system and the safe, efficient, and reliable movement of people and goods throughout Sutter County.
  - Policy M 2.1 Plan, design, and regulate roadways in accordance with the circulation diagram contained within this element and the California Road System Functional Classification System as updated and approved by the Federal Highway Administration, unless otherwise addressed in an adopted specific plan or community plan.
  - Policy M 2.5 Develop and manage the County roadway segments and intersections to maintain LOS D or better during peak hour, and LOS C or better at all other times. Adjust for seasonality. These standards shall apply to all County roadway segments and intersections, unless otherwise addressed in an adopted specific plan or community plan.
  - Policy M 2.8 Coordinate with the cities of Yuba city and Live Oak to provide acceptable and compatible levels of service on roadways that cross county/City boundaries and when establishing future road alignments within the cities' spheres of influence.
  - Policy M 2.10 maintain ongoing coordination with Caltrans, SACOG and other jurisdictions to address local and regional transportation issues.
  - o **Policy M 2.11** Support projects that will improve traffic flows and safety on State Highways.
  - o **Policy M 2.14** Develop local roads parallel to State Highways, where feasible, to reduce congestion and increase traffic safety on state facilities.

In addition to the above policies, the *General Plan Technical Background Report* states that the California Department of Transportation (Caltrans) has adopted LOS D as the minimum acceptable standard for SR 20 west of Humphrey Road and LOS E as the minimum acceptable standard for SR 20 east of Humphrey Road (Sutter County 2008: 3.2-2). SR 99 has a minimum acceptable LOS of E throughout the county.

Sutter County roadway LOS thresholds are provided in Table A-3.

Table A-3. Sutter County Roadway Level of Service Thresholds

Roadway	LOS C	LOS D	LOS E
Rural—Two Lane	7,000–10,600	10,600-16,400	16,400–25,200
Urban—Three Lane	15,330–17,520	17,520–19,700	19,700–21,900
Urban—Five Lane	30,660-35,040	35,040-39,420	39,420–43,800
Expressway—Four Lane	29,100-41,800	41,801–53,500	53,501-59,500
Freeway—Four Lane	33,700-48,400	48,401–60,000	60,001–67,400
Freeway—Six Lane	51,800-73,900	73,901–90,900	90,901–101,800
Source: Sutter County 2008	3.		

## **City of Yuba City**

#### Yuba City General Plan

The Yuba City General Plan outlines goals, policies, and guidelines that relate to transportation and circulation within the city. The following policies in the Transportation Element are applicable to traffic.

- Policy 5.2-G-4 Coordinate local actions with state and County agencies to ensure consistency.
- Policy 5.2-G-7 Maximize the carrying capacity of arterial roadways by controlling the number
  of intersections and driveways, prohibiting residential access, and requiring sufficient offstreet
  parking to meet the needs of each project.
- Policy 5.2-I-12 Develop and manage the roadway system to obtain LOS D or better for all major roadways and intersections in the City. This policy does not extend to residential streets (i.e., streets with direct driveway access to homes) or bridges across the Feather River nor does the policy apply to state highways and their intersections, where Caltrans policies apply. Exceptions to LOS D policy may be allowed by the City Council in areas, such as downtown, where allowing a lower LOS would result in clear public benefits. Specific exceptions granted by the Council shall be added to the list of exceptions below:
  - o SR 20 (SR 99 to Feather River Bridge) LOS F is acceptable;
  - o SR 20 (Feather River Bridge) LOS F is acceptable;
  - o Bridge Street (Twin Cities Bridge) LOS F is acceptable; and
  - o Lincoln Road (New Bridge across the Feather River) LOS F is acceptable.
  - No new development will be approved unless it can be shown that required level of service can be maintained on the affected roadways.
- **Policy 5.4-I-2** Develop bicycle routes that provide access to schools, parks, and the Feather River Parkway.
- Policy 5.6-I-1 In consultation with Sutter County and Caltrans, designate and provide signed
  truck routes, ensure that adequate pavement depth, lane widths, bridge capacities, loading
  areas, and turn radii are maintained on the designated truck routes, and prohibit commercial
  trucks from non-truck routes except for deliveries. Require that a truck route be provided for

any approved development zoned regional commercial, community commercial, business technology and light industrial, or manufacturing, processing, and warehousing.

- **Policy 5.6-I-2** Maintain design standards for industrial streets that incorporate heavier loads associated with truck operations and larger turning radii to facilitate truck movements.
- **Policy 5.6-I-3** Continue to ensure adequate truck access to off-street loading areas in commercial areas.
- Policy 5.6-I-4 Encourage regional freight movement on freeways and other appropriate routes; evaluate and implement vehicle weight limits as appropriate on arterial, collector, and local roadways to mitigate truck traffic impacts in the community.

The Yuba City General Plan does not identify LOS thresholds.

## City of Live Oak

#### City of Live Oak 2030 General Plan

The *City of Live Oak 2030 General Plan* outlines goals and policies that relate to transportation and circulation within the city. The following goal and policy of the Circulation Element are applicable to traffic.

- **Goal CIRC-5** Allow for efficient delivery of materials and shipment of products for Live Oak businesses without adversely affecting residents.
  - Policy CIRC-5.2 The City will consult with Caltrans, Sutter County, the California Highway
    Patrol, the California Public Utilities Commission, and the Union Pacific Railroad Company to
    appropriately regulate the safe movement of truck traffic and hazardous materials
    throughout the City.

# A.3.5 Air Quality

## A.3.5.1 Butte County

#### **Butte County Air Quality Management District List of Rules**

The Butte County Air Quality Management District (BCAQMD) has adopted local rules to reduce emissions throughout the district. Portions of the project in Butte County may be subject to the following rules and regulations (California Air Resources Board 2010b).

- **Rule 200 (Nuisance)**: Prohibits the discharge of air contaminants or other materials which cause injury, detriment, nuisance, or annoyance.
- **Rule 201 (Visible Emissions)**: Prohibits the discharge of air containments for a period or periods aggregating more than 3 minutes in any 1 hour.
- **Rule 202 (Particulate Matter Concentrations)**: Prohibits the discharge of particulate matter (PM) in excess of 0.3 grain per cubic foot of gas at standard conditions.
- **Rule 205 (Fugitive Dust Emissions)**: Limits the quantity of PM through BMPs.
- **Rule 252 (Stationary Internal Combustion Engines)**: Limits emissions of oxides of nitrogen (NO<sub>X</sub>) and carbon monoxide (CO) from stationary internal combustion engines (if construction requires engines rated at more than 50 brake horsepower).

• Rule 309 (Wildland Vegetation Management Burning): Establishes standards for the use of wildland vegetation management burning, range improvement burning, and forest management burning.

## A.3.5.2 Sutter County

#### **Feather River Air Quality Management District List of Rules**

Similar to the BCAQMD, the Feather River Air Quality Management District (FRAQMD) has developed local rules to reduce emissions throughout the district. The proposed project may be subject to the following FRAQMD rules. Failure to comply with any applicable district rule would be a violation subject to district enforcement action (California Air Resources Board 2009).

- **Rule 2.0 (Open Burning)**: Establishes standards for open burning to be conducted in a manner that minimizes emissions and smoke.
- **Rule 3.0 (Visible Emissions)**: Prohibits the discharge of air containments for a period or periods aggregating more than 3 minutes in any 1 hour.
- **Rule 3.2 (Particulate Matter)**: Prohibits the discharge of PM in excess of 0.3 grains per cubic foot of gas at standard conditions.
- **Rule 3.16 (Fugitive Dust Emissions)**: Limits emissions of fugitive dust from being airborne beyond the property line from which the emission originates.
- **Rule 3.22 (Stationary Internal Combustion Engines)**: Limits emissions of NO<sub>x</sub>, reactive organic gases (ROG), and CO from stationary internal combustion engines (if construction requires engines rated at more than 50 brake horsepower).

FRAQMD has established significance thresholds for the evaluation of criteria pollutant emissions. These thresholds are based on the district's Indirect Source Review (ISR) Guidelines (Feather River Air Quality Management District 2010). FRAQMD's main CEQA guidance is found in the ISR guidelines, and additional clarifying language is located on their website (Feather River Air Quality Management District 2010). The district requires construction and operational emissions to be quantified for the determination of mitigation measures.

## A.3.6 Vegetation

## A.3.6.1 Butte County

#### **Butte County General Plan 2030**

The policies below are taken from the Conservation and Open Space Element of the Butte County General Plan 2030, adopted in October 2010 (Butte County 2010:235–240). These policies are designed to guide planning related to and affecting habitat and biological resources, including vegetation and wetlands, within Butte County's jurisdiction.

- **Goal COS-6:** Engage in cooperative planning efforts to protect biological resources.
  - **COS-P6.1** The County shall coordinate with applicable federal, State, regional and local agencies on natural resources and habitat planning.

- Goal COS-7: Conserve and enhance habitat for protected species and sensitive biological communities.
  - **COS-P7.1** Conservation easements that protect habitat areas, habitat corridors and sensitive biological resources shall be promoted.
  - cos-P7-2 Clustered development patterns shall be encouraged in order to conserve habitat for protected species and biological resources.
  - COS-P7.3 Creeks shall be maintained in their natural state whenever possible, and creeks and floodways shall be allowed to function as natural flood protection features during storms.
  - COS-P7.6 New development projects shall include setbacks and buffers along riparian corridors and adjacent to habitat for protected species, except where permitted in the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP) Planning Area and where such development is consistent with the conditions of the HCP/NCCP, upon the future adoption of the [Butte Regional] HCP/NCCP.
  - COS-P7.7 Construction barrier fencing shall be installed around sensitive resources on or adjacent to construction sites. Fencing shall be installed prior to construction activities and maintained throughout the construction period.
  - COS-P7.8 Where sensitive on-site biological resources have been identified, construction employees operating equipment or engaged in any development-associated activities involving vegetation removal or ground disturbing activities in sensitive resource areas shall be trained by a qualified biologist and/or botanist who will provide information on the on-site biological resources (sensitive natural communities, special status plant and wildlife habitats, nests of special-status birds, etc.), avoidance of invasive plant introduction and spread, and the penalties for not complying with biological mitigation requirements and other state and federal regulations.
  - **COS-P7.9** A biologist shall be retained to conduct construction monitoring in and adjacent to all habitats for protected species when construction is taking place near such habitat areas.
- **Goal COS-8:** Maintain and promote native vegetation.
  - COS-P8.1 Native plant species shall be protected and planting and regeneration of native plant species shall be encouraged, wherever possible, in undisturbed portions of development sites.
  - o **COS-P8.2** New landscaping shall promote the use of xeriscape and native tree and plant species, including those valued for traditional Native American cultural uses.
- **Goal COS-9:** Protect identified special-status plant and animal species.
  - COS-P9.1 A biological resources assessment shall be required for any proposed development project where special-status species or critical habitat may be present. Assessments shall be carried out under the direction of Butte County. Additional focused surveys shall be conducted during the appropriate season if necessary. Upon adoption of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), assessment requirements of the [Butte Regional] HCP/NCCP shall be implemented for development projects within the [Butte Regional] HCP/NCCP area.

- o **COS-P9.2** If special-status plant or animal species are found to be located within a development site, proponents of the project shall engage in consultation with the appropriate federal, state and regional agencies and mitigate project impacts in accordance with state and federal law. Upon adoption of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), mitigation requirements of the [Butte Regional] HCP/NCCP shall be implemented for development projects within the [Butte Regional] HCP/NCCP area. Examples of mitigation may include:
  - a. Design the proposed project to avoid and minimize impacts.
  - b. Restrict construction to specific seasons based on project-specific special-status species issues (e.g. minimizing impacts to special-status nesting birds by constructing outside of the nesting season).
  - c. Confine construction disturbance to the minimum area necessary to complete the work.
  - d. Mitigate for the loss of special-status species by purchasing credits at an approved conservation bank (if a bank exists for the species in question), funding restoration or habitat improvement projects at existing preserves in Butte County, or purchasing or donating mitigation lands of substantially similar habitat.
  - e. Maintain a minimum 100-foot buffer on each side of all riparian corridors, creeks and streams for special-status and common wildlife.
  - f. Establish setbacks from the outer edge of special-status species habitat areas.
  - g. Construct barriers to prevent compaction damage by foot or vehicular traffic.

#### **Butte County Regional Habitat Conservation Plan/Natural Community Conservation Plan**

Butte County is currently preparing a Butte Regional Habitat Conservation Plan/Natural Community Conservation Plan (Butte Regional HCP/NCCP) that will provide comprehensive species, wetlands, and ecosystem conservation and contribute to the recovery of endangered species within the plan area while also providing a more streamlined process for environmental permitting. Plan goals that will support the conservation of vegetation and wetland resources include the following.

- Balance open space, habitat, agriculture and urban development.
- Allow for appropriate and compatible growth and development in the Butte County region.
- Preserve aquatic and terrestrial resources and provide habitat for threatened and endangered species through conservation partnerships with local agencies.
- Provide greater conservation values than a project-by-project, species-by-species review.

The first administrative draft is a work-in-progress (available: http://www.buttehcp.com/BRCP-Documents/1st-Admin-Draft-BRCP/index.html) and finalization and adoption of the plan is scheduled for late 2012 or early 2013.

## City of Biggs

#### City of Biggs General Plan 1997-2015

The policies below are taken from the Conservation and Open Space Element of the City of Biggs General Plan 1997–2015, adopted in 1998 (City of Biggs 1998:5-5–5-6). These policies are designed to guide planning related to and affecting habitat and biological and mineral resources within the City of Biggs' jurisdiction.

- **Policy 5.2.A** Apply mitigation measures to development projects to minimize impacts to biological resources during and after construction.
- **Policy 5.2.B** Consider opportunities for habitat preservation and enhancement in conjunction with public facility projects, particularly storm drainage facilities.
- **Policy 5.2.D** If the presence of protected species is determined to be likely, the project applicant shall be responsible for all costs associated with investigating species presence and preparation of any required mitigation plans.
- **Policy 5.2.E** Promote the establishment of an open space reserve along Hamilton Slough in areas southeast and south of the current City limits.

#### **Municipal Code**

According to Section 9.15.080 of the City of Biggs Municipal Code, *Tree care, planting, removing, and replacement – Permit required*, it is unlawful and prohibited for any person other than the superintendent or their authorized agent or deputy to cut, trim, prune, spray, brace, plant, move, remove, or replace any tree in any public street within the city.

## City of Gridley

#### City of Gridley 2030 General Plan

The policies below are taken from the Conservation Element of the City of Gridley 2030 General Plan, adopted in December 2009 (City of Gridley 2010:17). These policies are designed to guide planning related to biological resources, including vegetation and wetlands, within the City of Gridley's jurisdiction.

- **Policy 5.1** New developments shall use techniques, such as buffers, setbacks, and clustering of development to protect wetlands, riparian corridors, vernal pools, and sensitive species.
- **Policy 5.3** The City will have former agricultural drainage ditches improved or restored in a way that avoids or improves habitat value and maintains or improves wetland function.
- **Policy 5.4** The City will condition new development, as necessary, to reduce erosion, siltation, and mitigate impacts to wetland, riverine, and riparian habitats.
- **Policy 5.7** The City will ensure consistency of new development with applicable portions of the Butte County Habitat Conservation Plan and Natural Communities Conservation Plan.
- Policy 5.9 The City will continue to collaborate with the California Department of Fish and Wildlife and the U. S. Fish and Wildlife Service, as appropriate, to ensure the protection and preservation of special-status species and their habitats within the Gridley Planning Area.

## A.3.6.2 Sutter County

## Yuba-Sutter Habitat Conservation Plan/Natural Community Conservation Plan

Yuba and Sutter Counties are currently preparing a regional HCP, referred to as the Yuba-Sutter HCP/NCCP. The plan will include conservation goals, objectives, and measures that aim to preserve covered plant and wildlife species and important natural and agricultural communities that support these species as well as other local native and migratory wildlife within the plan area.

According to the November 2011 Planning Agreement (available: <a href="http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=39871">http://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=39871</a>>), the preliminary conservation objectives for the Plan are as follows.

- Provide for the protection of species and natural communities on an ecosystem or a landscape level.
- Preserve the diversity of plant and animal communities in the Planning Area;
- Assure connectivity to and compatibility with conserved areas within and adjacent to the Planning area boundaries.
- Protect the viability of threatened, endangered or other special status plant and animal species, and minimize and mitigate the take or loss of the Covered Species;
- Identify and designate biologically sensitive habitat areas;
- Preserve habitat and thereby contribute to the recovery of the Covered Species; and
- Reduce the need to list additional species.

#### **Sutter County General Plan—Public Draft**

The biological resource and open space policies below are taken from the Environmental Resources chapter of the *Sutter County General Plan—Public Draft*, released for public comment in fall 2010 (Sutter County 2010:9-4–9-7). These policies are designed to guide planning related to biological resources, including vegetation and wetlands, within Sutter County's jurisdiction.

- **Policy ER 1.3** Focus conservation efforts on areas identified as having very high and high habitat value as well as Sutter County's unique natural open space resources, including the Sutter Buttes, Sutter Bypass, Butte Sink, and the Sacramento, Feather, and Bear River corridors.
- **Policy ER 1.4** Emphasize the preservation, enhancement, and creation of sustainable, interconnected habitat and open space areas that highlight unique resources and integrate educational and recreational opportunities as appropriate.
- **Policy ER 1.7** Mitigate biological and open space effects that cannot be avoided in accordance with an applicable Habitat Conservation Plan and federal, state, and local regulations.
- Policy ER 1.10 Identify and pursue economically viable methods and funding sources for the long-term maintenance and management of significant biological and open space resource areas, including state and federal programs.
- Policy ER 2.2 Encourage and support the Sutter County Resource Conservation District's
  programs that facilitate preservation and restoration of natural wetland environments as long
  as these programs do not significantly affect Sutter County agricultural lands and flood control
  operations.

- **Policy ER 2.4** Encourage the creation and use of regional wetland mitigation banks to the extent that they do not conflict with Sutter County agricultural lands and flood control operations
- **Policy ER 3.1** Preserve special-status fish, wildlife, and plant species (e.g., rare, threatened, or endangered species) and habitats consistent with an applicable Habitat Conservation Plan and federal, state, and local regulations.
- Policy ER 3.2 Coordinate with federal, state, and local resource agencies (e.g., California
  Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers) to
  protect special-status species.
- **Policy ER 3.3** Support the preservation and re-establishment of fisheries in the rivers and streams within Sutter County.
- **Policy ER 3.4** Preserve and protect waterfowl resources along the Pacific Flyway Migration Corridor.
- **Policy ER 3.5** Preserve and enhance wildlife movement corridors between natural habitat areas to maintain biodiversity and prevent the creation of biological islands. Preserve contiguous habitat areas when possible.
- Policy ER 3.6 Preserve important areas of natural vegetation and the ecological integrity of
  these habitats, where feasible, including but not limited to riparian, vernal pool, marshes, oak
  woodlands and annual grasslands.
- **Policy ER 3.7** Preserve native oak trees when possible through the review of discretionary development projects and activities. Reduce the loss of oak trees through consideration of tree mitigation/replanting programs.
- **Policy ER 3.8** Encourage the use of native and drought tolerant plant materials, including native tree species, in all public and private landscaping and revegetation projects.
- **Policy ER 4.1** Preserve natural landforms, natural vegetation, and natural resources as open space to the extent feasible.
- **Policy ER 4.2** Preserve the Sutter Buttes as an important agricultural, cultural, historic, habitat, and open space resource. Promote and support efforts by willing landowners to increase opportunities for public access to the Sutter Buttes and other open space areas.
- **Policy ER 4.3** Preserve the Sacramento, Feather, and Bear River corridors as important habitat, recreation and open space resources. Support efforts to increase public access and recreational uses along the County's river corridors.
- **Policy ER 4.4** Support efforts to acquire additional open space adjoining protected natural resource areas to increase the size, connectivity, and buffering of existing habitat.
- Policy ER 4.6 Prohibit land mitigation within Sutter County for projects within other
  jurisdictions unless there is a benefit to Sutter County. Benefits can include, but are not limited
  to, providing flood protection for Sutter County, providing opportunities for Sutter County
  projects' use of the area for mitigation, or making the natural resources available for the
  enjoyment of Sutter County residents.

## **City of Yuba City**

### Yuba City General Plan

The guiding and implementation policies below are taken from the Environmental Conservation chapter of the City of Yuba City General Plan, adopted in 2004 (City of Yuba City 2004:8-13–8-14). These policies are designed to guide planning related to biological resources, including vegetation and wetlands, within the City of Yuba City's jurisdiction.

- **Policy 8.4-G-1** Protect special status species, in accordance with State regulatory requirements.
- Policy 8.4-G-2 Protect and enhance the natural habitat features of the Feather River and new open space corridors within and around the urban growth area.
- Policy 8.4-G-3 Preserve and enhance heritage oaks in the Planning Area.
- **Policy 8.4-G-4** Where appropriate, incorporate natural, wildlife habitat features into public landscapes, parks, and other public facilities.
- Policy 8.4-G-5 Support the preservation and enhancement of fisheries in the Feather River.
- **Policy 8.4-I-2** Require preservation of oak trees and other native trees that are of a significant size, by requiring site designs to incorporate these trees to the maximum extent feasible.
- **Policy 8.4-I-3** Require, to the extent feasible, use of drought tolerant plants in landscaping for new development, including private and public projects.
- **Policy 8.4-I-4** Require measures, as part of the Feather River Parkway Plan, to protect and enhance riparian zones, natural areas and wildlife habitat qualities; and establish and maintain protection zone along the river where development shall not occur, except a part of the parkway enhancement (e.g., trails and bikeways). For park improvements, require a buffer zone along the river in which no grading or construction activities will occur, except as needed for shoreline uses such as boat docks.
- **Policy 8.4-I-5** Establish wildlife corridors in conjunction with implementation of the Feather River Parkway Plan to minimize wildlife-urban conflicts.
- **Policy 8.4-I-6** Work with California Department of Fish and Wildlife and other agencies to enhance and preserve fisheries in the Feather River.

#### **Municipal Code**

According to municipal code Section 9-2.04, *Care of trees, shrubbery, and lawns,* "it shall be unlawful for any person to damage, cut, carve, transplant, or remove any tree, plant, wood, turf, or grass, or pick the flowers or seeds of any tree or plant, or attach any rope, wire, or other object to any tree or plant located in any park or recreation area." The Feather River bike trail, a recreational facility, falls within the biological study area.

## City of Live Oak

#### City of Live Oak 2030 General Plan

The policies below are taken from the Conservation and Open Space Element of the City of Live Oak 2030 General Plan (City of Live Oak 2010: CO-4–CO-9). These policies are designed to guide

planning related to and affecting habitat and biological resources, including vegetation and wetlands, within the City of Live Oak's jurisdiction.

- **Goal BIOLOGICAL-1**. Protect and enhance habitat suitable for special-status species that can occur in the Study Area.
  - O Policy Biological-1.1 Applicants of projects that have the potential to negatively affect special-status species or their habitat shall conduct a biological resources assessment and identify design solutions that avoid such adverse effects. If adverse effects cannot be avoided, then they shall be mitigated in accordance with guidance from the appropriate state or federal agency charged with the protection of these species.
- **Goal BIOLOGICAL-2**. Protect native oak and other large tree species occurring throughout the Study Area that provide valuable habitat for wildlife species and contribute to the historic and aesthetic character of the city.
  - o Policy Biological-2.1 New developments shall preserve all native oaks with a diameter at breast height (dbh) of 6 inches or greater and all other trees that have a dbh of 30 inches or greater, to the maximum extent feasible.
- Goal BIOLOGICAL-3. Protect and enhance existing riparian habitat within the Study Area.
  - O Policy Biological-3.1 Where feasible, the City will require that new developments avoid the conversion of existing riparian habitat and require that an adequate buffer of the associated riparian areas be established to protect this resource. Where feasible, the riparian buffers shall be incorporated into open space corridors, public landscapes, and parks. Riparian buffers shall be designed to preserve existing wildlife habitat; restore degraded habitat; provide habitat conditions favorable to native local wildlife; restrict activities that may adversely affect wildlife habitat quality within the established buffer zone; and provide interpretive features educating the public about the beneficial effects of native riparian habitat and activities that adversely affect wildlife.
  - Policy Biological-3.2 The City will take advantage of opportunities to enhance and restore
    existing riparian areas along Live Oak Slough and other drainage canals. Where feasible,
    these resources shall be incorporated into open space corridors, public landscapes, and park
    during the preparation of the Parks and Recreation Master Plan.
  - o **Policy Biological-3.3** The City will require new developments to avoid the loss of federally protected and state-protected wetlands. If loss is unavoidable, the City will require applicants to mitigate the loss on a "no net loss" basis through a combination of avoidance, minimization, and/or compensation in accordance with federal and state law.
  - Policy Biological-3.4 If development or expansion of the Live Oak Park and Recreation
    Area on the Feather River occurs, the City will encourage designs, construction, and
    operation to protect sensitive riparian habitat.

#### **Municipal Code**

Section 12.04.030 of the municipal code, *Permit to Plant or Remove*, states that "no trees or shrubs shall be planted in or removed from any public utility strip or other place in the city without a permit from the superintendent of streets. (Ord. 88 § 3, 1957)".

# A.3.7 Fish and Wildlife Resources

# A.3.7.1 Sutter County

#### Yuba-Sutter Habitat Conservation Plan/Natural Community Conservation Plan

The Yuba-Sutter NCCP/HCP, currently under development, is a cooperative planning effort initiated by Yuba and Sutter Counties to address the effects of regional proposed transportation projects (SR 99 and SR 70) and any resulting development in the surrounding area. The purpose of the Yuba-Sutter NCCP/HCP is to provide a way to continue economic growth and community development; retain the economic vitality of the area's agricultural community; maintain public uses of open space; simplify and expedite land use and conservation planning in the plan area; protect threatened and endangered species; and preserve plant and wildlife communities.

#### **Sutter County General Plan**

The *Sutter County General Plan* update was initiated in fall 2007. The objective of the general plan is to provide guidance for the development of Sutter County. The general plan promotes a balance between strong agricultural traditions, natural resource preservation, and economic growth opportunities. The Environmental Resources chapter of the general plan was updated in 2010. The following goals, objectives, and policies are relevant to fish resources in the study area.

- **Goal ER 1:** Support a comprehensive approach for the conservation, enhancement, and regulation of Sutter County's significant habitat and natural open space resources.
  - ER 1.3 Conservation Efforts. Focus conservation efforts on areas identified as having very
    high and high habitat value as well as Sutter County's unique natural open space resources,
    including the Sutter Buttes, Sutter Bypass, Butte Sink, and the Sacramento, Feather, and Bear
    River corridors.
  - ER 1.5 Resources Assessment. Require discretionary development proposals that could
    potentially impact biological resources to conduct a biological resources assessment to
    determine if any resources will be adversely affected by the proposal and, if so, to identify
    appropriate measures to avoid or mitigate such effects.
  - ER 1.6 Avoidance. Ensure that new development projects avoid, to the extent feasible, significant biological resources (e.g., areas of rare, threatened or endangered species of plants, riparian areas, vernal pools), except where such projects are identified as

     Authorized Development within an adopted Habitat Conservation Plan.
  - ER 1.7 Mitigation. Mitigate biological and open space effects that cannot be avoided in accordance with an applicable Habitat Conservation Plan and federal, state, and local regulations.
  - **ER 1.9 Buffers.** Ensure that new development incorporates buffers and other measures adequate to protect biological habitats that have been preserved, enhanced, and created.
- **GOAL ER 3:** Conserve, protect, and enhance Sutter County's varied wildlife and vegetation resources.
  - **ER 3.1 Special-Status Species.** Preserve special-status fish, wildlife, and plant species (e.g., rare, threatened, or endangered species) and habitats consistent with an applicable Habitat Conservation Plan and federal, state, and local regulations.

- ER 3.2 Agency Coordination. Coordinate with federal, state, and local resource agencies (e.g., California Department of Fish and Wildlife, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers) to protect special-status species.
- **ER 3.3 Fisheries.** Support the preservation and re-establishment of fisheries in the rivers and streams within Sutter County.
- **ER 3.6 Natural Vegetation.** Preserve important areas of natural vegetation and the ecological integrity of these habitats, where feasible, including but not limited to riparian, vernal pool, marshes, oak woodlands and annual grasslands (ER 3-A).
- ER 3.8 Native Plant Use. Encourage the use of native and drought tolerant plant materials, including native tree species, in all public and private landscaping and revegetation projects (ER 3-D).

# A.3.7.2 Butte County

## **Butte County General Plan 2030**

The Butte County General Plan 2030 (Butte County 2010) was adopted in October 2010. The objective of the general plan is to provide direction on how the county will fulfill its community vision and manage its future growth. The general plan addresses all aspects of development, including land use; circulation and transportation; open space, natural resources and conservation; public facilities and services; safety; and noise. The Conservation and Open Space Element chapter of the general plan was updated in 2010. The following goals, objectives, and policies are relevant to fish resources in the study area.

- **Goal COS-9:** Protect identified special-status plant and animal species.
  - o **COS-P9.1** A biological resources assessment shall be required for any proposed development project where special-status species or critical habitat may be present. Assessments shall be carried out under the direction of Butte County. Additional focused surveys shall be conducted during the appropriate season if necessary. Upon adoption of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), assessment requirements of the [Butte Regional] HCP/NCCP shall be implemented for development projects within the [Butte Regional]HCP/NCCP area.
  - COS-P9.2 If special-status plant or animal species are found to be located within a development site, proponents of the project shall engage in consultation with the appropriate federal, State and regional agencies and mitigate project effects in accordance with State and federal law. Upon adoption of the Butte Regional Habitat Conservation Plan (HCP) and Natural Community Conservation Plan (NCCP), mitigation requirements of the [Butte Regional]HCP/NCCP shall be implemented for development projects within the [Butte Regional]HCP/NCCP area.

Examples of mitigation may include:

- a. Design the proposed project to avoid and minimize effects.
- b. Restrict construction to specific seasons based on project specific special-status species issues (e.g. minimizing effects on special-status nesting birds by constructing outside of the nesting season).
- c. Confine construction disturbance to the minimum area necessary to complete the work.

- d. Mitigate for the loss of special-status species by purchasing credits at an approved conservation bank (if a bank exists for the species in question), funding restoration or habitat improvement projects at existing preserves in Butte County, or purchasing or donating mitigation lands of substantially similar habitat.
- e. Maintain a minimum 100-foot buffer on each side of all riparian corridors, creeks and streams for special-status and common wildlife.
- f. Establish setbacks from the outer edge of special-status species habitat areas.

# A.3.8 Agriculture, Land Use, and Socioeconomics

# A.3.8.1 Butte County

### **Butte County General Plan**

The northern portion of Reach 25 through Reach 41 of the proposed project are located in unincorporated Butte County, and are subject to the goals and policies of the *Butte County General Plan*. Relevant goals and policies of the Agriculture Element follow.

- **Goal AG-1** Maintain, promote, and enhance Butte County's agriculture uses and resources, a major source of food, employment, and income in Butte County.
  - **Policy AG-P1.1** The County supports State and federal legislation designed to conserve soil and protect agricultural land.
  - **Policy AG-P1.3** Continue to work with landowners in establishing new and maintaining existing Williamson Act contracts.
- Goal AG-2 Protect Butte County's agricultural lands from conversion to non-agricultural uses.
  - Policy AG-P2.1 The county shall work with the Local Agency Formation Commission to create and maintain a consistent approach to the conservation of agricultural land through the designation of reasonable and logical sphere of influence boundaries.
  - Policy AG-P2.2 The County supports private conservation organizations that utilize voluntary conservation easements as a tool for agricultural conservation, continued agricultural use, agricultural supportive uses, tax breaks and similar goals.
- **Goal AG-6** Provide adequate infrastructure and services to support agriculture.
  - Policy AG-P6.1 The County supports the efforts of private landowners and public agencies
    to protect farmers from catastrophic and uncontrolled flooding of permanent crops, such as
    orchards, nurseries and other major agricultural investments.

Relevant goals and policies of the Land Use Element follow.

- **Goal LU-1** Continue to uphold and respect the planning principles on which the County's land use map is based.
  - o **Policy LU-P1.1** The County shall protect and conserve land that is used for agricultural purposes, including cropland and grazing land.
  - Policy LU-P1.2 The County shall promote economic development and job-generating industry in unincorporated areas.

- **Policy LU-P1.6** The County shall conserve important habitat and watershed areas, while protecting the public safety of County residents.
- **Goal LU-6** Provide adequate land for the development of public and quasi-public uses, as a means to provide necessary public services and facilities in support of existing and new residential, commercial, and industrial land uses.
- **Goal LU-12** Coordinate planning efforts within the county and region.
  - o **Policy LU-P12.4** The County shall coordinate planning efforts with those of special districts and school districts.

Relevant goals and policies of the Economic Development Element follow.

- **Goal ED-1** Improve the local economy by diversifying the economy, reducing the unemployment rate, increasing business revenues to the county, and increasing wages.
  - **Policy ED-P1.1** The County's priority for future growth is creating sustainable jobs and providing a living wage to families to reduce poverty.
  - Policy ED-P1.4 Products and services for County operations should be purchased from Butte County locally-owned businesses whenever possible.
  - Policy ED-P1.5 The County supports education and job training for those county residents currently employed, dislocated, or unemployed in order to enhance existing skill levels and provide for job advancement, and supports removal of impediments to gainful employment for county residents.
- **Goal ED-2** Promote and support the local agricultural economic sector.
  - Policy ED-P2.2 The County shall encourage development of food processing and other facilities that could support production of "value-added" agriculture products from Butte County.
- **Goal ED-3** Improve the county's fiscal health.

# A.3.8.2 Sutter County

#### **Sutter County General Plan**

Project Reaches 2 through 10, part of Reach 11, and Reaches 14, 15, and 17 through the southern portion of Reach 25 lie within unincorporated Sutter County, and are subject to the goals and policies of the *Sutter County General Plan*. Relevant goals and policies of the Agriculture Element follow.

- **Goal AG 1** Preserve and protect high-quality agricultural lands for long-term agricultural production.
  - Policy AG 1.1 Agricultural Land Preservation. Preserve and maintain agriculturally designated lands for agricultural use and direct urban/suburban and other nonagricultural related development to the cities, unincorporated rural communities, and other clearly defined and comprehensively planned development areas.
  - o **Policy AG 1.5 Agricultural Land Conversion**. Discourage the conversion of agricultural land to other uses unless all of the following findings can be made:

- a. The net community benefit derived from conversion of the land outweighs the need to protect the land for long-term agricultural use
- b. There are no feasible alternative locations for the proposed use that would appreciably reduce impacts upon agricultural lands
- c. The use will not have significant adverse effects, or can mitigate such effects, upon existing and future adjacent agricultural lands and operations
- Policy AG 1.6 Interrelationship with Habitat Conservation. Permit agriculturally
  designated lands to be used for habitat conservation and/or mitigation with approval of a
  development agreement, provided such use does not interfere or adversely affect existing or
  planned agricultural uses or impact County flood control operations.
- Policy AG 1.9 Williamson Act. Promote the use of the California Land Conservation Act
  (Williamson Act) on agricultural lands throughout the County provided the State continues
  to fund the subvention program to offset the loss of property taxes.
- Policy AG 1.10 Transfer of Development Rights. Explore, and if determined feasible, implement programs to permanently preserve agricultural lands through the use of voluntary transfer of development rights to guide development to more suitable areas.
- Policy AG 1.11 Conservation Easements. Explore, and if determined feasible, identify
  agricultural mitigation bank areas in which the County will encourage private landowners to
  voluntarily participate in agricultural conservation easements.
- Policy AG 1.12 Land Mitigation Program. Explore, and if determined feasible, create an Agricultural Land Mitigation Program.
- O Policy AG 1.13 Cooperation with Other Agencies. Coordinate with the cities, the Local Agency Formation Commission (LAFCO), local service providers, and other relevant agencies on joint mechanisms to preserve agricultural lands and limit urban encroachment and the extension of urban service and infrastructure into agricultural areas.
- Goal AG 2 Minimize conflicts between agricultural uses and operations and adjacent nonagricultural uses.
  - o **Policy AG 2.1 Minimize Conflicts.** Require that new development adjacent to agricultural areas be designed to minimize conflicts with adjacent agricultural uses and operations.
  - O Policy AG 2.2 Right to Farm. Affirm and protect the right of agricultural operators in agricultural areas to continue their agricultural practices ("right to farm"). The right to farm shall acknowledge through noticing that landowners and residents adjacent to agriculture should be prepared, accept, and not consider a nuisance the impacts inherent with lawful farming activities. At a minimum, the Right to Farm Notice shall be recorded with the Deed of Trust at the time of transfer of all applicable properties.
  - Policy AG 2.3 Buffers. Protect agricultural operations from conflicts with non-agricultural uses by requiring buffers between proposed non-agricultural uses and adjacent agricultural operations:
    - a. Buffers should be physically and biologically designed to avoid conflicts between agricultural and nonagricultural uses. The biological design should ensure that the buffer does not provide a host environment for pests or carriers of disease which could potentially impact adjacent farming operations.

- b. Buffers shall not be located on the agricultural parcel(s).
- c. Buffers should primarily consist of a physical separation (setback) between agricultural and non-agricultural uses. The appropriate width of the buffer shall be determined on a site-by-site basis taking into account the type of existing agricultural uses (i.e. crop type and associated operational requirements); the nature of the proposed non-agricultural development; the natural features of the site; landscaping, walls or other barriers planned by the proposed development; and any other factors that affect the specific situation.
- d. In addition to a physical separation, the following buffer options may be considered: greenbelts/open space, limited park and recreation areas, roads, PUE's, waterways, and vegetative screens. These buffering options may be used in any combination to most effectively reduce conflicts arising from adjacent incompatible uses.
- e. An ongoing maintenance program for the buffer shall be established and should include vector controls.
- f. Buffer restrictions may be removed if all adjacent parcels have been irreversibly converted to nonagricultural uses.
- **Goal AG 3** Protect the natural resources needed to ensure that agriculture remains an essential and sustainable part of Sutter County's future.
- Goal AG 4 Provide for growth, expansion, and diversification of Sutter County's agricultural industries.
  - Policy AG 4.1 Transportation Systems. Maintain existing regional transportation systems to support the local, national, and global movement of agricultural products. Support the extension of freight rail into Sutter County's industrial areas.
  - Policy AG 4.2 Utility Infrastructure. Implement mechanisms to provide the utility infrastructure, flood protection, and services necessary to lands designated for industrial use in order to support the growth and expansion of Sutter County's agriculture industries.
  - Policy AG 4.5 Agricultural Industries. Promote the growth and expansion of existing
    agricultural industries as well as the development of new and diverse agricultural
    production, processing, and distribution industries within Sutter County.
  - Policy AG 4.6 Local Processing. Support the local processing and distribution of agricultural products grown in Sutter County and other nearby locations.

Relevant goals and policies of the Land Use Element follow.

- **Goal LU 1** Promote the efficient and sensitive use of lands to protect and enhance Sutter County's quality of life and meet the needs of existing and future residents and businesses.
  - o **Policy LU 1.2 Balanced Land Use Pattern.** Maintain a balance of land uses that allows residents the opportunity to live, work, and shop in the County.
  - Policy LU 1.4 Identification of Floodplains. Identify the unincorporated areas of Sutter County that are subject to flooding, and evaluate and regulate development within these areas according to state and federal regulations to minimize the loss of life and damage to property caused by potential flood events.

- Policy LU 1.5 Minimize Land Use Conflicts. Avoid/minimize conflicts between land uses and ensure that new development maintains the viability of adjacent agricultural, open space, and rural uses and minimizes impacts upon existing residents, businesses, and resources.
- o **Policy LU 1.6 Buffers.** Require new development adjacent to agricultural and open space lands to provide buffers and incorporate mitigation to minimize impacts as appropriate. Agricultural buffers shall be in accordance with the Sutter County Design Guidelines and project environmental review.
- o Policy LU 1.7 Growth Inducement. Locate and size infrastructure to not induce growth within adjacent agricultural and open space areas.
- o **Policy LU 1.11 Efficient Land Use Patterns.** Encourage land use patterns that support the efficient use of resources, enhance the timely provision of services and infrastructure, promote a variety of transportation modes, facilitate pedestrian mobility, and support health and wellness.
- **Goal LU 2** Preserve Sutter County's agricultural heritage and natural resources.
  - **Policy LU 2.1 Long-Term Conservation.** Promote the long-term conservation of agricultural and open space lands in accordance with the goals and policies of the Agricultural Resources and Environmental Resources elements.
  - o **Policy LU 2.2 Isolated Urban and Rural Uses.** Prohibit the designation of new, and the expansion of existing, isolated rural or urban land uses within agricultural or other resource lands, unless such expansion is compatible with the existing use.
  - o Policy LU 2.5 Commercial Recreation Overlay. Allow for the allocation of the Commercial Recreation Overlay land use designation within, or "inside" the levees along the Sacramento, Feather, and Bear River corridors. Consider allocation of this land use designation to adjacent areas "outside" the levees when determined to be necessary for the proposed use and if the use will not have an adverse impact on adjacent agricultural operations or natural resources.
- Goal LU 4 Facilitate orderly, well-planned, sustainable, and efficient growth that balances aesthetic, functional, resource, and economic considerations.
  - o **Policy LU 4.1 Growth Areas.** Direct future growth and development to the growth areas identified on Figure 3-1.
  - o **Policy LU 4.6 Discontiguous Development.** Prohibit the establishment of new growth areas that are separated from existing cities and/or rural communities.
- **Goal LU 5** Promote a collaborative process for the planning and annexation of the area within the cities spheres of influence.
  - o Policy LU 5.1 Live Oak SOI. Recognize the sphere of influence identified on the General Plan Land Use Diagrams as Live Oak's boundary of future planned urban growth.
  - o Policy LU 5.2 Yuba City Existing SOI. Recognize the existing sphere of influence identified on the General Plan Land Use Diagrams as Yuba City's boundary of future planned urban growth.

- Policy LU 5.3 Yuba City Possible Future SOI. Consider the possible future expanded sphere of influence identified on the General Plan Land Use Diagrams as Yuba City's possible boundary of future planned urban growth. Enter into a memorandum of understanding (MOU) with Yuba City prior to supporting the City's possible future expanded sphere of influence.
- O Policy LU 5.4 Sphere Expansion. Discourage the modification or expansion of Yuba City's and Live Oak's spheres of influence beyond the boundaries identified (including the possible future expanded Yuba City sphere of influence) on the General Plan Land Use Diagrams until substantial build out has occurred within the existing spheres, and a clear market demand exists for new uses that cannot be more efficiently accommodated in other defined growth areas in the County.
- Goal LU 9 Designate adequate and compatible sites for governmental/public uses, and take a
  lead role when feasible on regional issues of importance to Sutter County, its residents, and
  businesses.
  - Policy LU 9.1 Co-Location. Promote the co-location of parks, schools, police, fire, libraries, community centers and other community facilities to support community interaction, enhance neighborhood identity, support joint use, and leverage resources.
  - Policy LU 9.4 Impacts to Nearby Uses. Require public facilities such as wells, pumps, tanks, and yards to be located and designed to ensure that noise, light, odors, and appearance do not adversely affect nearby land uses.
  - Policy LU 9.5 Regional Planning Efforts. Support and participate as appropriate in countywide, regional, and other multi-agency planning efforts related to land use, housing, revenue, economic development, tourism, agriculture, natural resources, air quality, habitat conservation, transportation, transit, infrastructure, water supply, flood control, solid waste disposal, emergency preparedness, and other issues relevant to the County.
  - Policy LU 9.7 Project Consultation. Encourage early consultation with adjacent jurisdictions on development proposals in Sutter County that may have an impact to them. Respond to and comment on development proposals in other jurisdictions that may have an impact to Sutter County to ensure consistency with the County's General Plan and that appropriate mitigation is incorporated.

Relevant goals and policies of the Economic Development Element follow.

- **Goal ED 1** Maintain and enhance the County's long-term fiscal health.
- Goal ED 2 Maintain a business-friendly environment for both existing and new companies.
  - Policy ED 2.1 Infrastructure for New Business. Ensure the provision of adequate infrastructure for business development, including flood control, road and rail networks, telecommunications backbone, sewer, drainage facilities, and water supply.
  - Policy ED 2.6 Interjurisdiction Coordination. Create alliances with local jurisdictions and agencies to promote economic growth within the county.
- **Goal ED 3** Enhance the desirability of the County for new business and business expansion by supporting investment in the professional skills of the work force.
  - o **Policy ED 3.1** Stable Jobs. Encourage future growth that creates stable jobs.

• **Policy ED 3.2** Financial Independence. Support economic opportunities that promote the self-sufficiency of residents and reduce dependence on County programs and services.

## City of Yuba City

#### Yuba City General Plan

The *Yuba City General Plan* outlines land use and zoning policies for the area within the Yuba City limits. Although Reaches 11 through 18 of the proposed project skirt the eastern boundary of Yuba City, the project site lies, with three exceptions, within unincorporated Sutter County. These exceptions are the northernmost portion of Reach 11, Reach 16, and the southernmost portion of Reach 17, which fall within Yuba City limits.

Relevant policies of the Agriculture Element follow.

- o **Policy 8.2-G-1** Promote preservation of agriculture outside of the urban growth area.
- Policy 8.2-I-1 Work with the County to preserve agricultural uses in areas outside the
  Urban Growth Boundary and within greenbelts established around the exterior of the UGB.
  The City should work with Sutter County to encourage the continuation of farming activities
  outside the City's and Urban Growth Boundary. Programs such as conservation easements and
  Williamson Act contracts should be pursued.
- Policy 8.2-I-2 Facilitate the continuance of agricultural activities within the City's urban growth area until the land is needed to accommodate population and employment growth.
   During this interim, minimize conflicts between agricultural uses and urban/suburban uses through site design techniques (not necessarily structural barriers).
- Policy 8.2-I-5 Work with the Economic Development Corporation to assist proponents in continued and new agricultural processing uses in the proposed industrial area in order to support agricultural activities in the County.
- Policy 8.2-I-6 Work with government agencies and non-profit land trusts to assist owners
  of undeveloped lands (sufficient in size to allow continued agricultural uses) to remain in
  agricultural open space on the perimeter of the urban growth area. Potential programs may
  include purchase of conservation easements or creation of agricultural land trusts.

Relevant policies of the Land Use Element follow.

- **Policy 3.4-I-2** Establish standards for urban edges and ensure that designated intensities and uses provide an appropriate transition to rural land at these edges.
- **Policy 3.4-I-4** Support the County's efforts to maintain viable agricultural uses surrounding the city in areas outside the proposed Urban Growth Boundary.
- **Policy 3.9-G-5** Protect the supply of land suitable for employment center uses by not allowing incompatible uses to locate in these areas.

Relevant policies of the Growth and Economic Development Element follow.

Policy 2.5-G-1 Foster a climate in which business can prosper and actively promote
economic development opportunities and knowledge of Yuba City in the region, state and
nation.

- Policy 2.5-G-5 Encourage agricultural processing and cooperative distribution and marketing of agricultural products.
- Policy 2.5-G-6 Promote agricultural-related technology and opportunities for "back office" uses and specialty manufacturing.
- Policy 2.5-G-7 Enhance aspects of the community that help economic development and draw residents to Yuba City, including small-town ambience, educational, cultural, environmental and recreational resources, and affordable housing.

## City of Live Oak

#### City of Live Oak 2030 General Plan

The FRWLP project area lies approximately 1mile east of the Live Oak City limit, but portions of Reaches 22 through 25 fall within the City of Live Oak SOI. The SOI, as designated in the *City of Live Oak 2030 General Plan*, represents the city's probable ultimate physical boundary. Accordingly, the following goals and policies may apply to implementation of the proposed project.

The relevant goal and policies from the Agriculture Element follow.

- Goal Agriculture-1 Preserve agricultural resources and support the practice of farming.
  - Policy Agriculture-1.1 Preserve agricultural enterprises by supporting right-to-farm policies.
  - Policy Agriculture-1.3 As a part of the City's economic development strategy, the City will
    focus on efforts to attract industries related to, and supportive of, the local agricultural
    economy.
  - Policy Agriculture-1.5 The City will work with farmers, property owners, extensions, agencies, and agricultural organizations to enhance the viability of agricultural uses and activities.

The relevant goal of the Land Use Element follows.

Goal LU-5 Establish environmentally and economically sustainable land-use patterns.

Relevant goals and policies of the Economic Development Element follow.

- **Goal ED-3** Attract and develop new employment uses in Live Oak that can provide jobs for local workers, enhance the City's tax base, and diversify the local economy.
  - o **Policy ED-3.2** The City will coordinate with Sutter County to ensure a mutual City-County benefit from agricultural processing plants that locate near Live Oak.
  - o **Policy ED-3.3** The City will identify and proactively engage agricultural service businesses that could locate in Live Oak and support nearby agricultural processing and sales.
  - Policy ED-3.6 The City will target attracting the types of industries that are not only suited to the assets offered by Live Oak's location, but also industries that will provide viable career ladders for local workers, from entry level through management positions.
- **Goal ED-5** Foster growth and expansion among existing businesses in the community as a primary strategy for improving the economic health of the City.

# A.3.9 Population, Housing, and Environmental Justice

# A.3.9.1 Butte County

#### **Butte County General Plan 2030**

The relevant goals and policies of the Housing Element of the *Butte County General Plan 2030* are listed below.

- **Goal H-1:** Provide for the County's regional share of new housing for all income groups and future residents as identified in the Housing Needs Assessment.
- **Goal H-2:** Encourage the provision of affordable housing in the unincorporated area.
- Goal H-3: Partner with property owners to preserve and rehabilitate the existing supply of housing.
- **Goal H-4:** Collaborate with existing service providers to meet the special housing needs of homeless persons, elderly, large families, disabled persons, and farmworkers.
- **Goal H-5:** Ensure equal housing opportunity.
- **Goal H-6:** Promote energy conservation.

## City of Biggs

#### City of Biggs General Plan

The relevant goals and policies of the City of Biggs General Plan Housing Element 2009–2014 (Pacific Municipal Consultants 2010) are listed below.

- Goal 1—Housing Quality: Provide an adequate supply of housing which is affordable, safe, sanitary, and desirable for all segments of the community. Housing should be of sufficient quality and quantity to afford all persons regardless of race, age, religion, sex, marital status, ethnic background, or personal disabilities an opportunity of selecting among varying types, designs, quality and value.
- **Goal 2—Housing Quantity and Affordability**: It is the goal of the City of Biggs to encourage the preservation of existing housing and the construction of new housing at a range of costs and in quantities to meet the needs of existing and future residents of the City.
- **Goal 3—Equal Housing opportunity**: It is the goal of the City of Biggs to assure that discrimination is not a factor in the ability of households to obtain housing.
- **Goal 4—Natural Resources and Energy Conservation**: It is the goal of the City to promote the conservation of natural resources and energy in housing production.

## **City of Gridley**

#### City of Gridley 2030 General Plan

The relevant goals of the City of Gridley 2030 General Plan Housing Plan are listed below.

• **Housing Goal 1:** To promote the development of a variety of housing types throughout the city that are safe and built to complement the surrounding neighborhood.

- **Housing Goal 2:** To facilitate the preservation and construction of housing to meet the needs of Gridley residents, including all household types and incomes.
- **Housing Goal 3:** To reduce and remove constraints to development and redevelopment of housing.
- Housing Goal 4: To promote development and redevelopment of affordable housing.
- **Housing Goal 5:** To ensure equal opportunity and access to housing for all residents.
- **Housing Goal 6:** To reduce household costs and conserve natural resources and energy in housing production.

# A.3.9.2 Sutter County

## **Sutter County General Plan**

The applicable goals and policies of the Sutter County General Plan Housing Element are listed below (Sutter County 2010:5-19 to 5-20).

- **Goal 1:** Remove governmental constraints, address accessibility needs, and provide a regulatory framework to encourage a variety of housing types that accommodate all income groups.
- **Goal 2:** Provide for an adequate supply of new housing to meet the needs of present and future Sutter County residents, incorporating a variety of housing types and densities that accommodate all income groups, including extremely low-income households.
- **Goal 3:** Provide opportunities for agricultural housing while preserving rural land for agricultural uses.
- **Goal 4:** Ensure that new housing in Sutter County is safe and sanitary and that it receives public services that are adequate to support the level of development.
- **Goal 5:** Conserve and improve existing housing in Sutter County to ensure safe and sanitary conditions.
- **Goal 6:** Support the Consolidated Area Housing Authority of Sutter County and other nonprofit and private affordable housing providers in the County.

## **City of Yuba City**

#### **Yuba City Housing Element Update**

The City of Yuba City's policies on housing provided in its housing element update (2008–2013) (Stuart and Graham 2009: 56, 57, 63, 65, 71) are listed below.

- **H-A:** Provide incentives and programs to ensure the construction and maintenance of safe and sanitary housing with adequate public services for existing and future residents of the City.
- **H-B:** Provide incentives and programs to ensure the provision of very low, low, and moderate income housing units to meet community needs.
- **H-C:** Continue to work with Sutter County on actions to fulfill Yuba City's fair share of regional housing needs.
- **H-D:** Ensure that new housing will be safe and sanitary and in a livable environment with adequate public services for the level of development.

- **H-E:** Facilitate the production of various housing types and densities to meet the needs of all income groups and ensure that housing opportunities are open to all without regard to race, color, age, sex, religion, national origin, family status, or physical handicap.
- **H-F:** Encourage the use of energy efficient materials and technology in new construction.

## City of Live Oak

#### City of Live Oak 2030 General Plan

The relevant goals and policies of the *City of Live Oak 2030 General Plan* Housing Element are listed below.

- Goal A: To accommodate the City's share of the Regional Housing Need.
- **Goal B:** Provide for a variety of housing opportunities and affordability levels within the City of Live Oak.
- **Goal C:** Encourage and assist in the rehabilitation of housing units in need of repair and occupied by extremely low-, very low-, and low-income residents. Strive to enhance the overall quality of the City's existing housing stock.
- Goal D: Preserve, and if necessary replace, the City's publicly assisted affordable housing.
- **Goal E.1:** Ensure that no person seeking housing in the City of Live Oak is discriminated against on the basis of race, color, religion, sex, disability, familial status, ancestry, national origin, ancestry, marital status, sexual orientation, source of income, or age.
- **Goal F.1:** To promote energy conservation.

## A.3.10 Visual

#### A.3.10.1 Butte County

#### **Butte County General Plan 2030**

The Butte County General Plan 2030 (Butte County 2010) establishes the Thermalito Afterbay as a Water-Based Scenic Area. There are no other county-designated Land- or Water-Based Scenic Areas in the project area. Relevant goals and policies of the Water Resources Element, Conservation and Open Space Element, and Public Facilities and Services Element are listed below.

- **Goal W-6**: Improve streambank stability and protect riparian resources
  - W-P6.1 Any alteration of natural channels for flood control shall retain and protect riparian vegetation to the extent possible while still accomplishing the goal of providing flood control. Where removing existing riparian vegetation is unavoidable, the alteration shall allow for reestablishment of vegetation without compromising the flood flow capacity.
- Goal COS-16: Respect Native American culture and planning concerns.
  - COS-P16.2 Impacts to the traditional Native American landscape shall be considered during California Environmental Quality Act or National Environmental Policy Act review of development proposals.

- o **COS-P17.1** Views of Butte County's scenic resources, including water features, unique geologic features and wildlife habitat areas, shall be maintained.
- **Goal PUB-8:** Coordinate an interconnected multi-use trail system.
  - PUB-P8.3 The development of abandoned railroad rights-of-way, levee tops, utility easements and waterways for new multi-use trails shall be pursued where appropriate.

#### A.3.10.2 **Sutter County**

### **Sutter County General Plan**

Signs are located along North Buttes Road indicating the North Buttes Scenic Route. This route, however, is not included in the Sutter County General Plan (Sutter County 2011) as a countydesignated scenic route. The Sutter County General Plan contains the following policies related to visual resources.

Related policies of the Land Use Element are listed below. The policy concerning countywide land use is as follows.

LU 1.16 Views from Rural Roadways and Highways. Prohibit new projects and activities that would obscure, detract from, or negatively impact the quality of views from the County's rural roadways and highways. Limit off-site advertising along County roadways and highways.  $(LU\ 1-B)$ 

The policies concerning agriculture and open space are shown below.

- LU 2.5 Commercial Recreation Overlay. Allow for the allocation of the Commercial Recreation Overlay land use designation within, or "inside" the levees along the Sacramento, Feather, and Bear River corridors. Consider allocation of this land use designation to adjacent areas "outside" the levees when determined to be necessary for the proposed use and if the use will not have an adverse impact on adjacent agricultural operations or natural resources. (LU 2-A/LU 2-B)
- LU 2.6 Rural Character. Ensure the density, intensity, and design of new development within agricultural areas is consistent with and maintains the County's rural/agricultural character. (LU 1-B)

The policy concerning rural communities is shown below.

• LU 3.8 Landmarks and Resources. Preserve and protect local landmarks and significant natural resources within rural communities. (LU 1-B/LU 3-A)

One policy of the Agricultural Resources Element relates to visitor services (agri-tourism).

• AG 5.4 Recreational Uses. Support recreational uses on privately owned lands where such uses are compatible with on and off-site agriculture and with scenic and environmentally sensitive resources. (AG 1-A)

Several policies of the Environmental Resources Element related to biological resources and open space.

**ER 3.6** Natural Vegetation. Preserve important areas of natural vegetation and the ecological integrity of these habitats, where feasible, including but not limited to riparian, vernal pool, marshes, oak woodlands and annual grasslands. (ER 3-A)

- **ER 3.7** Oak Trees. Preserve native oak trees when possible through the review of discretionary development projects and activities. Reduce the loss of oak trees through consideration of tree mitigation/replanting programs. (ER 3-B/ER 3C)
- **ER 4.1** Preserve Natural Resources. Preserve natural landforms, natural vegetation, and natural resources as open space to the extent feasible.
- **ER 4.3** River Corridors. Preserve the Sacramento, Feather, and Bear River corridors as important habitat, recreation and open space resources. Support efforts to increase public access and recreational uses along the County's river corridors.

Other policies of the Environmental Resources Element concern visual resources.

- **ER 7.1** Scenic Resources. Protect views of Sutter County's unique scenic resources including the Sutter Buttes, wildlife and habitat areas, the Sacramento, Feather, and Bear Rivers, and other significant resources. (*ER 7-A*)
- **ER 7.2** Scenic Roadways. Enhance the visual character along the County's key transportation corridors, in particular Highways 99 and 20, through application of consistent design and landscape standards. (*ER 7-B*)
- **ER 7.3** Visually Complimentary Development. Require new development adjacent to the County's scenic resources to be sited and designed to visually complement the natural environment, topography, and aesthetic viewsheds. (*ER 7-A*)
- **ER 7.5** Lighting. Support practices that reduce light pollution and preserve views of the night sky including the design and sighting of light fixtures to minimize glare and light on adjacent properties. (ER 7-A)

## **City of Yuba City**

The City of Yuba City General Plan (City of Yuba City 2004) contains the following Growth and Economic Development policy related to visual resources.

• **Guiding Policy 2.5-G-7** Enhance aspects of the community that help economic development and draw residents to Yuba City, including small-town ambience, educational, cultural, environmental and recreational resources, and affordable housing.

#### **Community Design**

#### **Sutter Street/Second Street**

• **Implementing Policy 4.4-I-10** Provide signage, landscaping, lighting, and other visual features to emphasize the existing and planned pedestrian access to the riverfront.

#### Parks, Schools, & Community Facilities

The general plan references the 2002 *Feather River Parkway Strategic Plan* that was developed to make use of the existing open space along the river that

is visually inaccessible due to the existing levee. Proposed uses include a trail system, beaches, river viewing pavilions, boating facilities, and active recreational facilities, such as a golf course. The plan also addresses issues of waterfront accessibility, park space creation, and connections between the waterfront and Yuba City.

- **Implementing Policy 6.1-I-10** Implement the Feather River Parkway Strategic Plan in a manner consistent with the plans and programs put forth in that document and consistent with policies in the Open Space and Conservation Chapter (Chapter 8). Proposed actions include:
  - Improve pedestrian access to the riverfront;
  - Provide a mix of active- and non-active recreational and open space in those areas delineated in the Feather River Parkway Strategic Plan; and
  - Ensure that the open spaces proposed in the Feather River Parkway Strategic Plan be designed in a manner flexible enough to accommodate a variety of activities.

#### **Environmental Conservation**

#### **Open Space**

- **Guiding Policy 8.1-G-2** Enhance the open space features of the Feather River.
- **Guiding Policy 8.1-G-3** Preserve and enhance the visual and scenic resources of the Planning Area.
- **Implementing Policy 8.1-I-1** Coordinate with Sutter County in the creation of a greenway/open space buffer around the perimeter of the City's urban growth area. Explore regulatory incentives (e.g., Williamson Act) and financing mechanisms necessary to ensure preservation of these lands as open space.
- **Implementing Policy 8.1-I-3** Work with public and private entities to implement open space features of the Feather River Parkway Plan.
- **Implementing Policy 8.1-I-4** Where feasible, encourage restoration of degraded open space areas in the Feather River Parkway planning area to an environmentally valuable and sustainable condition.

#### **Biological Resources**

- **Guiding Policy 8.4-G-2** Protect and enhance the natural habitat features of the Feather River and new open space corridors within and around the urban growth area.
- **Guiding Policy 8.4-G-3** Preserve and enhance heritage oaks in the Planning Area.
- **Implementing Policy 8.4-I-2** Require preservation of oak trees and other native trees that are of a significant size, by requiring site designs to incorporate these trees to the maximum extent feasible.

### City of Live Oak

#### City of Live Oak 2030 General Plan

The City of Live Oak 2030 General Plan (City of Live Oak 2010) contains the following policies related to visual resources. One policy concerns community character.

- **Policy Design 3.1** Important visual gateways should be designed to:
  - o Provide an attractive streetscape environment for visitors;
  - o Preserve vegetation and add new landscaping to enhance aesthetics;

- o Preserve or enhance views of the Sutter Buttes, where possible;
- Visually "announce" to the visitor their arrival in Live Oak and the downtown core area; and
- O Have attractive civic landmarks and public spaces.

Other policies relate to conservation and open space. Specifically, the following policies concern biological resources.

- Policy Biological 3.1 Where feasible, the City will require that new developments avoid the conversion of existing riparian habitat and require that an adequate buffer of the associated riparian areas be established to protect this resource. Where feasible, the riparian buffers shall be incorporated into open space corridors, public landscapes, and parks. Riparian buffers shall be designed to preserve existing wildlife habitat; restore degraded habitat; provide habitat conditions favorable to native local wildlife; restrict activities that may adversely affect wildlife habitat quality within the established buffer zone; and provide interpretive features educating the public about the beneficial effects of native riparian habitat and activities that adversely affect wildlife.
- **Policy Biological 3.2** The City will take advantage of opportunities to enhance and restore existing riparian areas along Live Oak Slough and other drainage canals. Where feasible, these resources shall be incorporated into open space corridors, public landscapes, and park during the preparation of the Parks and Recreation Master Plan.
- **Policy Biological 3.4** If development or expansion of the Live Oak Park and Recreation Area on the Feather River occurs, the City will encourage designs, construction, and operation to protect sensitive riparian habitat.

The following policy concerns drainage and flood protection.

• **Policy Public 5.3** Existing Reclamation District 777 and Reclamation District 2056 drainage channels should be improved, to the greatest extent feasible, to create more naturalized swales that provide stormwater conveyance. These channels should be restored with native, low-maintenance landscaping to filter stormwater and enhance neighborhood aesthetics.

The following policy concerns parks and recreation.

 Policy Parks 4.2 The City will coordinate with the other cities and the county to plan for improvements at Live Oak Park and Recreation Area to support and complement future trails along the Feather River.

# A.3.11 Recreation

# A.3.11.1 Butte County

### **Butte County General Plan 2030**

The Butte County General Plan 2030 establishes several goals, policies, and actions affecting recreation including bicycle and park facilities (Butte County 2010:191). These appear in the Circulation Element and the Public Facilities and Services Element.

• **Goal CIR-1:** Promote intergovernmental communication and cooperation concerning transportation-related issues.

- **Goal CIR-3:** Design new neighborhoods, and improve existing neighborhoods, to accommodate and promote alternative modes of transportation.
- **Goal CIR-5:** Provide a safe, continuous, integrated, and accessible bicycle system, so as to encourage the use of the bicycle as a viable transportation mode and as a form of recreation and exercise.
- **Goal CIR-9:** Provide a circulation system that supports public safety.
- **Goal PUB-6:** Support a comprehensive and high-quality system of recreational open space and facilities.
- **Goal PUB-7:** Encourage local, regional, and State parks providers to engage in coordinated and cooperative planning efforts.
- Goal PUB-8: Coordinate an interconnected multiuse trail system.
  - Policy PUB-P8.1 The County shall work with the municipalities and park and recreation districts to connect between trails in incorporated and unincorporated regions of Butte County.
  - Policy PUB-P8.2 The County shall work with local jurisdictions, Lassen and Plumas
    National Forests, the California Department of Water Resources, and the California
    Department of Fish and Wildlife to designate additional shared use trails along unpaved
    County roads, access roads, and fire roads.
  - o **Policy PUB-P8.3** The development of abandoned railroad rights-of-way, levee tops, utility easements, and waterways for new multiuse trails shall be pursued where appropriate.
  - Policy PUB-P8.4 The County supports development of additional equestrian trails, including safe routes along roads.
  - o **Policy PUB-P8.5** The County supports development of additional off-road vehicle trails.
  - Policy PUB-P8.6 The County supports acquisition of appropriate and adequate funding for the creation and ongoing maintenance of trails.
  - Policy PUB-P8.7 New development shall incorporate multiuse trails and connections to existing trail networks.
    - Action PUB-A8.2 Cooperate with appropriate agencies to conduct a countywide trails
      planning study to identify new needed routes and connections to the existing trails
      network, as well as to address funding and management of trail facilities.

### **Countywide Bikeway Master Plan**

Butte County adopted its Countywide Bikeway Master Plan in 1998 and is updating this plan (Butte County 2010:177). The Countywide Bikeway Master Plan identifies the following goals, objectives, and policies affecting recreation (Butte County 1998:39):

- **Goal 1:** Provide continuous and convenient bicycle access to and between major destinations throughout the County.
  - **Objective:** Develop a bikeway program that identifies interregional bikeway needs.
    - Policy Identify and give funding priority to projects which connect existing regional bikeway facilities.

- **Policy** Encourage linkages between local bikeways to regional bikeways.
- **Policy** Promote bikeway linkages to regional educational, recreational, shopping, governmental, and other attractions.
- **Goal 2:** Provide a safe and efficient bikeway system.
- **Goal 3:** Promote bicycling as a part of the intermodal transportation system.
- **Goal 5:** Develop a bikeway system that encourages and facilitates commuter use.
- Goal 6: Develop a bikeway system that encourages and facilitates recreational use.
  - **Objective:** Encourage recreational bicycling by providing a bikeway system that responds to the riding needs of both the avid cyclist and the "weekend" rider.
    - Policy Emphasize connections to regional recreational centers, such as Lake Oroville and Bidwell Park.
    - **Policy** Provide adequate bicycle parking facilities at regional recreation areas where warranted by demand.
- Goal 7: Pursue and obtain maximum funding available for bikeway programs.

## **City of Gridley**

#### City of Gridley 2030 Master Plan

The City of Gridley 2030 General Plan establishes a policy of achieving and maintaining a standard of 5 acres of park land per 1,000 population (City of Gridley 2010:10-22). The Circulation Element and the Open Space Element in the general plan contain several goals, policies, and programs affecting recreation including bicycle and park facilities (City of Gridley 2010:7-19).

- **Circulation Goal 1:** To ensure that new development accommodates safe and pleasant routes for pedestrians, bicyclists, and drivers.
  - Circulation Implementation Strategy 1.3 The City will update the Bicycle Plan to incorporate the Planned Growth Area and implement policies of the updated 2030 General Plan. The City will incorporate connections to existing and planned regional pedestrian/bicycle routes shown on plans adopted by Butte County. The City will provide potential connections with the City of Biggs and will incorporate planned connections shown on plans adopted by the City of Biggs. The City will consult with BCAG, the County, Butte County Air Quality Management District, and other agencies to obtain funding for improvements described in the Bicycle Plan.
- **Circulation Goal 2:** To retrofit existing development for increased pedestrian, bicycle, and transit access.
- **Open Space Goal 1:** To create high-quality, functional open space corridors.
- **Open Space Goal 2:** To provide visual screening, buffering, trails, and drainage in open space corridors along the railroad and Highway 99 in the Planned Growth Area.
- **Open Space Goal 3:** To provide for drainage, pedestrian and bicycle circulation, and landscaping in open space corridors within neighborhoods.

- **Open Space Goal 4:** To ensure adequate outdoor recreational open space to meet local needs as the City grows.
  - Open Space Policy 4.1 New developments shall provide for improved, public park land according at a minimum rate of 5 acres per 1,000 residents.
- Open Space Goal 5: Maintain, expand, and upgrade facilities in existing recreation areas.
  - Open Space Policy 5.6 The City will explore opportunities to improve ongoing public access to, and expand recreational opportunities related to the Feather River on property owned by the City and used for wastewater treatment.
  - Open Space Implementation Strategy 5.1 The City will promote awareness of regional, state, and private parks and recreation planning and facilities development near Gridley, such as Grey Lodge, Lake Oroville Recreation Area, or new facilities. The City will encourage development of uses and facilities within Gridley that would be complementary to these regional recreation opportunities, in order to take best local advantage of these resources. The City will coordinate signage to promote awareness of these regional facilities.
- **Open Space Goal 6:** To provide recreation facilities and programs that meet the needs of existing and future residents.

## City of Gridley Bicycle Plan

The City of Gridley Bicycle Plan identifies goals, objectives, and measures for developing a bicycle circulation network that ties into the region beyond the City and provides access to the Gray Lodge Wildlife Area, the City of Biggs, and the Feather River. The plan establishes several goals, objectives, and implementation measures affecting recreation facilities for bikes (City of Gridley 2003:16).

- Goal: A safe, effective, and efficient bicycle circulation system
  - o **Implementation Measure 3.1:** Participate and comment on the Butte County Bicycle Plan update as it relates to Gridley-area routes, namely access to Feather River along East Gridley Road, and bikeways to Biggs and Gray Lodge Wildlife Area.

# A.3.11.2 Sutter County

#### **Sutter County General Plan**

Sutter County does not have a park and recreation department and does not provide recreational facilities or opportunities through County programs under such a public agency (Sutter County 2011:8-1). The County does collect developer fees for parks and allocates the fees to one of five sectors. The fees are collected for recreation capital improvements (Sutter County 1996b:7.3). The Sutter County General Plan establishes a policy of achieving and maintaining a standard of 10 acres of park land per 1,000 population (Sutter County 2011:8-7). The plan identifies the following goals and policies affecting recreation, including bicycle and park facilities (Sutter County 2011:8-7–8-9).

- **Goal PS 6:** Ensure that adequate park, recreation, and open space lands and programs are provided to meet the diverse needs of Sutter County's residents.
  - Policy PS 6.1 Park Facilities. Support the development of new parks and recreational
    facilities, and the maintenance and enhancement of existing parks and recreational facilities,
    to provide for a variety of active and passive recreational needs.

- Policy PS 6.2 Countywide Parks and Open Space Standard. Strive to achieve and maintain a standard of 10 acres per 1,000 residents of park and open space lands within the County.
- Policy PS 6.3 Parks and Open Space Standard for New Large-Scale Development.
  Require new large-scale development projects (i.e., Specific Plans, Rural Planned
  Communities) to provide 10 acres per 1,000 residents of active and passive parks and open
  space lands. New large-scale development projects shall prepare and implement a County
  approved Parks and Open Space Master Plan.
- Policy PS 6.6 Access. Locate new parks and recreation facilities within walking and bicycling distance of residential areas.
- Policy PS 6.10 River Recreation. Support the development of public recreational amenities
  that enhance public access to and use of the Sacramento, Feather, and Bear River corridors
  including launch ramps, marinas, camping facilities, picnic areas, vista points, interpretive
  centers, and commercial recreation and services.
- o **Policy PS 6-B** Revise the Zoning Code to allow for and facilitate recreation, commercial recreation, service and related uses along the County's river corridors.
- **Goal PS 7:** Support creation of an interconnected multi-use trail system that enhances Sutter County's recreational opportunities.
  - Policy PS 7.1 Multi-Use Trails. Support the development of a network of safe, interconnected multi-use trails that link activity and resource areas, and connect with regional trail systems.
  - Policy PS 7.3 River Trails. Support opportunities to create multi-use trails along the Sacramento, Feather, and Bear Rivers, including enhancement of the Feather River Parkway, through collaboration with the cities of Yuba City and Live Oak.
  - o **Policy PS 7.4 Trail Opportunities.** Encourage the development of abandoned rights-of-way, levee tops, utility easements, and waterways for new multi-use trails.

#### Yuba-Sutter Bikeway Master Plan

The Yuba-Sutter Bikeway Master Plan, completed by the FRQAMD, provides comprehensive trail facility planning in Sutter County (Feather River Air Quality Management District 1995:i). The plan identifies the following goals, objectives, and policies for trails that apply to the Sutter Basin Project feasibility study area (Feather River Air Quality Management District 1995:6).

- **Goal 1.0:** Develop a comprehensive regional bikeway system as a viable alternative to the automobile for all trip purposes.
  - Objective: Improve on-street and off-street bicycling conditions through the construction and maintenance of bikeway facilities.
    - **Policy 1.2** Encourage the use of existing natural and manmade corridors such as creeks and railroad right of ways for future bike path alignments.
    - **Policy 1.4** Develop a recreational bikeway system that uses lower volume streets, off-street bike paths, and serves regional historic and natural destinations.

- **Policy 1.8** Develop a network of off-road mountain bicycling facilities that offer variety of experiences for the bicyclist while minimizing conflicts with hikers and equestrians, and environmental impacts.
- **Goal 2.0:** Maximize the amount of State and Federal funding for bikeway improvements that can be received by Yuba and Sutter Counties.
- **Goal 3.0:** Maximize Multi-Modal Connections to the Bikeway System.
- **Goal 4.0:** Improve bicycle safety conditions in Yuba and Sutter Counties.

## **City of Yuba City**

#### **Yuba City General Plan**

Yuba City has a policy of achieving and maintaining a standard of 10 acres of park land per 1,000 population (City of Yuba City 2004:6-1). The City of Yuba City General Plan establishes several policies affecting recreation including bicycle and park facilities.

- Policy 5.4-I-1 Establish a network of on- and off-roadway bicycle routes and encourage their use for commute, recreational, and other trips. Design bike routes with the safety of cyclists as a priority.
- Policy 5.4-I-2 Develop bicycle routes that provide access to schools, parks, and the Feather River Parkway.
- Policy 6.1-I-1 Establish and maintain a standard of 10 acres of public parks per 1,000 residents. Specific standards are as follows: 1 acre of Neighborhood Parks, 1.5 acres of Community Parks, 1.5 acres of City Parks, and 6 acres of Specialized Recreation Area per 1,000 residents.
- O Policy 6.1-I-10 Implement the Feather River Parkway Strategic Plan in a manner consistent with the plans and programs put forth in that document and consistent with policies in the Open Space and Conservation Chapter (Chapter 8). Proposed actions include:
  - Improved pedestrian access to the riverfront;
  - Provide a mix of active- and non-active recreational and open space in those areas delineated in the Feather River Parkway Strategic Plan; and
  - Ensure that the open spaces proposed in the Feather River Parkway Strategic Plan be designed in a manner flexible enough to accommodate a variety of activities.

#### **Feather River Parkway Strategic Plan**

The Feather River Parkway Strategic Plan is master plan for the space between the western Feather River Levee and the Feather River within Yuba City. The plan calls for an extensive network of bicycle and pedestrian trails, wildlife habitat preserves, campgrounds, water focused recreation facilities, civic and urban plaza elements, beach recreation, and equestrian facilities. The plan divides the space into five distinct sub-areas each with a unique program and master plan (City of Yuba City 2002:III-9).

## City of Live Oak

### City of Live Oak 2030 General Plan

The City of Live Oak 2010 General Plan establishes a policy of achieving and maintaining a standard of 7 acres of park land per 1,000 population (City of Live Oak 2010). The City of Live Oak 2030 General Plan establishes several goals and policies affecting recreation including bicycle and park facilities (City of Live Oak 2010).

- **Goal CIRC-1:** Develop a highly connected circulation system.
- **Goal CIRC-2:** Improve the convenience and safety for multi-modal travel in existing development.
- **Goal CIRC-3:** Ensure safe and convenient daily travel for pedestrians, bicyclists, transit users, and drivers as Live Oak grows.
- **Goal PARKS-1:** Provide a variety of park land in the existing developed City to meet park standards.
- **Goal PARKS-2:** Ensure that accessible, high-quality park land is planned and developed as the City grows.
- **Goal PARKS-3:** Provide recreation facilities and programs to accommodate the needs of existing and future residents.
- **Goal PARKS-4:** Become a countywide or regional center for recreation.
  - Policy PARKS-4.1 The City will proactively coordinate with Sutter County and Yuba City to identify regional park and recreation needs, such as regional parks or trails, which could be planned, jointly funded, and developed in Live Oak.
  - Policy PARKS-4.2 The City will coordinate with the other cities and the county to plan for improvements at Live Oak Park and Recreation Area to support and complement future trails along the Feather River.
  - Policy PARKS-4.3 The City will coordinate with the California Department of Parks and Recreation on funding opportunities to support local recreational goals and plan for improvements in Live Oak that would complement any future nearby state parks and recreational lands.

# A.3.12 Public Health and Environmental Hazards

# A.3.12.1 Butte County

#### **Butte County General Plan**

The Health and Safety Element in the *Butte County General Plan* outlines goals, policies, and implementation policies that address natural to human-made hazards.

- **Goal HS-14:** Reduce risks from the harmful effects of hazardous materials.
  - **Policy HS-P14.1** The County supports the hazardous materials Emergency Response Plan (Area Plan).

- o **Policy HS-P14.2** Hazardous materials carrier routes shall be designated to direct hazardous materials transport away from populated areas.
- O Policy HS-P14.5 Environmental assessment and/or investigation shall be required prior to General Plan Amendment or Rezone approval that would allow uses with sensitive receptors, such as residential developments, schools, or care facilities, on sites previously used for commercial, industrial, agricultural or mining uses to determine whether soils, groundwater and existing structures are contaminated and require remediation. Policies and oversight authority shall follow Health and Safety Code Division 20, Chapters 6.5 and 6.8 when determining jurisdiction.
- **Goal HS-15:** Ensure that Butte County is prepared for emergency situations.
  - Policy HS-P15.1 The County shall conduct continuous advance planning to anticipate potential threats and improve emergency response effectiveness.
  - Policy HS-P15.2 Critical emergency response facilities such as fire, police, emergency service facilities and utilities shall be sited to minimize their exposure to flooding, seismic effects, fire, or explosion.
  - o **Policy HS-P15.3** Emergency access routes shall be kept free of traffic impediments.
  - **Policy HS-P15.4** Streets and developed properties shall be clearly marked to enable easy identification.
    - Action HS-A15.1 Seek funding to develop community awareness and education
      programs for citizens that describe procedures and evacuation routes to be followed in
      the event of a disaster.

### City of Biggs

#### City of Biggs General Plan

The Public Health and Safety Element of the City of Biggs General Plan establishes goals and policies that address public health and safety, and hazardous materials. These goals and policies address the city's approach to minimizing these hazards and maintaining a safe environment for residents.

- **Goal 6.1:** To ensure that the City and involved local agencies are able to effectively respond to emergency situations which may threaten the people or property of the Biggs community.
  - Policy 6.1.A: The City shall continue to participate in emergency preparedness planning with Butte County.
- **Goal 6.3:** Protect people and property within the City of Biggs against fire related loss and damage.
  - Policy 6.3.A: At a minimum, maintain current levels of service for fire protection by continuing to require development to provide and/or fund fire protection facilities, personnel, and operations and maintenance.
- **Goal 6.6:** Minimize the risk of personal injury, property damage, and environmental degradation resulting from the use, transport, disposal, and release/discharge of hazardous materials.

## **City of Gridley**

### **City of Gridley General Plan**

The Safety Element of the *City of Gridley General Plan* outlines key safety issues facing Gridley, public health and hazardous materials. Goals and policies in this element describe the city's approach to minimizing these hazards and maintaining a safe environment for residents.

- **Safety Goal 3:** To protect people and resources from hazards posed by hazardous materials, including their extraction, manufacture, storage, use, disposal, and transport.
  - Safety Policy 3.1: The City will require that hazardous materials are used, stored, transported, and disposed in a safe manner and in compliance with local, State, and federal safety standards.
  - Safety Policy 3.7: The City will review development requests and require that any airborne, waterborne, windborne, and other hazardous materials uses are fully disclosed, analyzed, and mitigated to ensure against any risk relative to any nearby planned or existing land uses and their users.
- **Safety Goal 4:** To reduce risks to people and structures from fires.
  - Safety Policy 4.1 The City will require setbacks, ignition resistant building materials, or other measures to reduce exposure to potential wildfires in areas designated for natural open space preservation, based on California Department of Forestry and Fire Protection recommendations and Maintenance of Defensible Space Measures, as appropriate.
- **Safety Goal 5:** To minimize the loss of life and damage to property from natural and human-caused hazards by ensuring adequate emergency routes and response.
  - Safety Policy 5.1 New developments and City investments shall be consistent with the information provided in the Butte County Multi-Jurisdictional All Hazard Pre-Disaster Mitigation Plan.
  - o **Safety Policy 5.2** The City will ensure the adequacy of disaster response and coordination with Butte County and the ability of individuals to survive disasters.
  - Safety Policy 5.4 The City will identify and maintain, in consultation with the Butte County
    Office of Emergency Services, evacuation routes and operational plans for relevant local
    hazards.
  - **Safety Policy 5.6** The City will require development and maintenance of a road system that provides adequate access for emergency equipment.

# A.3.12.2 Sutter County

#### **Sutter County General Plan**

The Hazards and Hazardous Materials Element and Public Services Element of the *Sutter County General Plan* contains goals, policies, and actions aimed at reducing the risk associated with natural and human-made hazards within the county.

• **Goal PHS 3:** Protect health, safety, property, and the environment from the use, transport, disposal, and release/discharge of hazardous materials and waste.

- **Goal PHS 4:** Respond appropriately, effectively, and efficiently to natural and human-made emergencies and disasters.
  - Policy PHS 4.1 Emergency Operation Plans. Continue to implement and regularly update countywide emergency operation plans to reduce or eliminate long-term risk to life and property from natural or human-made emergencies and disasters.
  - o **Policy PHS 4.2 Evacuation Routes.** Regularly review established evacuation routes to ensure emergency access to and from all parts of the County.
  - o **Policy PHS 4.3 Post-Disaster Response.** Plan for the continued function of essential facilities following a major disaster to facilitate post-disaster response.
  - Policy PHS 4.4 Emergency Access. Require minimum road and driveway widths and clearances around structures consistent with established requirements in order to ensure emergency access.
  - Policy PHS 4.5 Emergency and Disaster Preparedness Training. Coordinate with local and regional agencies to regularly conduct emergency and disaster preparedness training to test operational and emergency plans.
  - Policy PHS 4.7 Coordination. Continue to be responsible for planning, preparedness, emergency response, and recovery activities associated with natural and human-made disasters. Provide communication and coordination between local and federal agencies, medical facilities, schools, local radio stations, and special needs service providers.
  - Policy PHS 4.8 Mutual Aid Agreements. Continue to participate in mutual aid agreements to ensure adequate resources, facilities, and other support services necessary for emergency response.

#### **City of Yuba City**

#### Yuba City General Plan

The Noise and Safety Element of the *Yuba City General Plan* provides information for the protection of the community from unreasonable risks associated with the effects of hazardous material accidents.

- Guiding Policy 9.4-G-2 Minimize the risk of personal injury, property damage, and environmental damage from fire, hazardous chemicals releases, natural and human made disasters.
- o **Implementing Policy 9.4-I-2** Prepare and disseminate information, including a page on the City's website, about emergency preparedness.
- **Guiding Policy 9.5-G-1** Minimize the risk of property damage and personal injury resulting from the production, use, storage, disposal, or transportation of hazardous materials.
- Implementing Policy 9.5-I-1 Promote the reduction, recycling, and safe disposal of household hazardous wastes through public education and awareness. Expand collection programs in conjunction with new growth in the city.
- Implementing Policy 9.5-I-2 Continue to pursue funding to conduct pre-plan visits to hazardous materials sites within the city, as well as major roadway and rail corridors used for hazardous materials transport.

- o **Implementing Policy 9.5-I-3** Require the clean-up of sites contaminated with hazardous substances.
- o **Implementing Policy 9.5-I-4** Implement policies contained in the Sutter County Hazardous Waste Management Plan that encourage and assist the reduction of hazardous waste from businesses and homes.
- **Implementing Policy 9.5-I-6** Specify routes for transporting hazardous materials, taking into account areas of projected new growth.

## City of Live Oak

#### City of Live Oak 2030 General Plan

The Public Safety Element of the City of Live Oak 2030 General Plan contains goals, policies, and implementation measures related to public safety in the city of Live Oak. This element directs the city to evaluate potential hazards, develop policies and procedures to avoid hazards, and create adequate emergency responses.

- **Goal PS-3.** Provide for adequate emergency response.
  - o **Policy PS-3.1** The City shall maintain and update the City's emergency response plan, as needed, and ensure ongoing consistency with the General Plan.
  - o **Policy PS-3.2** The City will add a section to the emergency response plan on railroad safety to address potential releases related to accidents or spills of hazardous substances, such as gasoline, diesel, or transported hazardous materials/hazardous wastes.
  - o **Policy PS-3.3** The City will maintain mutual aid agreements with other agencies in Sutter County.
  - o **Safety Implementation Strategy 3.1:** The City will maintain and update a list of hazardous sites, buildings, and uses in the Sphere of Influence or use databases that track the location of hazardous materials sites, buildings, and similar features. The City will use updated lists to evaluate and condition development, as necessary, to protect environmental and public health.
- **Goal PS-4.** Protect the community from the harmful effects of hazardous materials.
  - o **Policy PS-4.1:** The City, through its discretionary review authority, will assess potential risks associated with hazardous materials used, stored, transported, and disposed, and ensure they are handled in a safe manner and in compliance with local, state, and federal safety standards.
  - o **Policy PS-4.2** The City will require that dumpsites for hazardous materials are cleaned in conformance with applicable federal and state laws before new uses are established.
  - **Policy PS-4.3** The City will coordinate with appropriate federal, state, and regional agencies to address local sources of groundwater and soil contamination, including underground storage tanks, septic tanks, agriculture, and industrial uses.
  - o **Policy PS-4.4** New development adjacent to areas of ongoing agricultural development outside the City's Sphere of Influence shall provide agricultural buffers that are adequate to protect future residents from harmful effects of agricultural chemical use (see Conservation and Open Space Element).

 Policy PS-4.5 The City will support efforts to identify and remediate soils and groundwater contaminated with toxic materials, and to identify and eliminate sources contributing to such contamination.

# A.3.13 Cultural Resources

# A.3.13.1 Butte County

#### **Butte County General Plan**

The Butte County General Plan 2030 (Butte County 2010:253) contains a number of policies governing cultural resources. The following goals and policies of the Conservation and Open Space Element are relevant to review of the FRWLP.

- **Goal COS-14:** Preserve important cultural resources.
  - Policy COS-P14.2 As part of CEQA and NEPA projects, evaluations of surface and subsurface cultural resources in the county shall be conducted. Such evaluations should involve consultation with the Northeast Information Center.
- **Goal COS-15:** Ensure that new development does not adversely impact cultural resources.
  - Policy COS-P15.1 Areas found during construction to contain significant historic or prehistoric archaeological artifacts shall be examined by a qualified consulting archaeologist or historian for appropriate protection and preservation. Historic or prehistoric artifacts found during construction shall be examined by a qualified consulting archaeologist or historian to determine their significance and develop appropriate protection and preservation measures.
  - Policy COS-P15.2 Any archaeological or paleontological resources on a development project site shall be either preserved in their sites or adequately documented as a condition of removal. When a development project has sufficient flexibility, avoidance and preservation of the resource shall be the primary mitigation measure.
- **Goal COS-16** Respect Native American culture and planning concerns.
  - Policy COS-P16.2 Impacts to the traditional Native American landscape shall be considered during California Environmental Quality Act or National Environmental Protection Act review of development proposals.
  - Policy COS-P16.3 Human remains discovered during implementation of public and private development projects shall be treated with dignity and respect. Such treatment shall fully comply with the federal Native American Graves Protection and Repatriation Act and other appropriate laws.
  - Policy COS-P16.4 If human remains are located during any ground disturbing activity, work shall stop until the County Coroner has been contacted, and, if the human remains are determined to be of Native American origin, the NAHC and most likely descendant have been consulted.

# A.3.13.2 Sutter County

#### **Sutter County General Plan**

The Sutter County General Plan (Sutter County 2011:9-16, 9-17) identifies the following policies.

- Policy ER-8A: For projects subject to discretionary approval involving the demolition, relocation, or alteration of a building or structure over 45 years old or that would result in a change to the building or structure's immediate setting, the County shall require an assessment by a professional historic resource consultant to determine if the action would cause a substantial adverse change in the significance of an historical resource pursuant to CEQA Guidelines Section 15064.5.
- O Policy ER-8b: If the historical resource assessment determines that the proposed action would cause a substantial adverse change in the significance of an historical resource, the County shall require as a condition of project approval the implementation of appropriate and feasible measures to reduce the potential impact, including the appropriate level of written and photographic documentation of significant historical resources that would be demolished.
- Policy ER 8-C: For projects subject to discretionary approval, which involve grading, excavation, or construction, require the applicant to hire a professional that meets the Secretary of Interior's professional qualifications standards for archaeology to conduct an archaeological resource investigation. As determined necessary by the archaeologist and the County, updated records search, pre-construction field surveys, research, and testing, and/or other methods that identify whether a substantial adverse impact on significant archaeological resource would occur. If cultural resources are discovered, the resource shall be examined by a qualified archaeologist to determine its significance and develop appropriate protection and preservation measures.
- o **Policy ER 8-D:** Require that when any subsurface cultural resources, paleontological resources, or human remains are encountered, all work within 100 feet of the discovery be stopped and the area protected from further disturbance until the discovery is evaluated. The appropriate County personnel shall be notified immediately. The resources shall be examined by qualified personnel to determine their significance and develop appropriate protection and preservation measures. If human remains are discovered, they shall be treated in compliance with applicable state and Federal laws, including notifying the County Coroner and consulting with the California Native American Heritage Commission, as appropriate.

### **City of Yuba City**

## **Yuba City General Plan**

Yuba City's adopted general plan (Yuba City 2004:8-8) provides the following guiding and implementing policies related to cultural resources.

- o **Guiding Policy: 8.3-G-1** Identify and preserve the archaeological, paleontological, and historic resources that are found within the Yuba City Planning Area.
- o **Implementing Policy 8.3-I-1** Encourage the preservation of historic sites, buildings, and structures.

- Implementing Policy 8.3-I-3 Promote the registration of historic sites, buildings, and structures in the National Register of Historic Places, and inclusion in the California Inventory of Historic Resources.
- o **Implementing Policy 8.3-I-4** Consult with the local Native American community in the cases where new development may result in disturbance to Native American sites.
- Implementing Policy 8.3-I-5 Require that new development analyze and avoid any potential impacts to archaeological, paleontological, and historic resources by:
  - Requiring a records review for development proposed in areas that are considered archaeologically sensitive;
  - Studying the potential effects of development and construction (as required by CEQA);
  - Requiring pre-construction surveys and monitoring during any ground disturbance for all development in areas of historical and archaeological sensitivity; and
  - Implementing appropriate measures to avoid the identified impacts.
- o **Implementing Policy 8.3-I-6** In accordance with CEQA and the State Public Resources Code, require the preparation of a resource mitigation plan and monitoring program by a qualified archaeologist in the event that archaeological resources are discovered.

# A.4 References

- AMEC. 2007. Final Yuba City–Sutter County, California Multi-Hazard Mitigation Plan. Prepared for Yuba City, CA and Sutter County, CA. October.
- Bryant, W. and E. Hart. 2007. Special Publication 42 Fault-Rupture Hazard Zones in California, Interim Revision. California Geological Survey. August.
- Butte County. 1998. Countywide Bikeway Master Plan. Prepared by the Butte County Association of Governments. Oroville, CA.
- Butte County. 2007. 2007 Future Bike Routes within Butte County. Department of Public Works. Oroville, CA.
- Butte County. 2010. Butte County General Plan 2030. Oroville, CA. October 26.
- Butte County Public Works. 2009. Butte County Storm Water Management Program. NPDES Phase II Annual Report Sixth Permit Year. Prepared for U.S. Environmental Protection Agency. September 15.
  - http://buttecounty.net/Public%20Works/Divisions/Land%20Development/Stormwater%20Pr ogram.aspx. Accessed: February 2011.
- California Air Pollution Control Officers Association. 2008. CEQA and Climate Change. January, 2008. Available: <a href="http://www.capcoa.org/wp-content/uploads/downloads/2010/05/CAPCOA-White-Paper.pdf">http://www.capcoa.org/wp-content/uploads/downloads/2010/05/CAPCOA-White-Paper.pdf</a>.
- California Air Pollution Control Officers Association. 2010. Quantifying Greenhouse Gas Mitigation Measures. http://www.capcoa.org/wp-content/uploads/2010/11/CAPCOA-Quantification-Report-9-14-Final.pdf. Accessed: June 2012.

- California Air Resources Board. 2009. Feather River AQMD List of Current Rules. Last revised: October 7, 2009. Available: <a href="http://www.arb.ca.gov/drdb/fr/cur.htm">http://www.arb.ca.gov/drdb/fr/cur.htm</a>. Accessed: December 30, 2010.
- California Air Resources Board. 2010a. Local Government Operations Protocol: For the Quantification and Reporting of Greenhouse Gas Emissions Inventories. Version 1.1. CARB, California Climate Action Registry, ICLEI Local Government for Sustainability, The Climate Registry. CA.
- California Air Resources Board. 2010b. Butte County AQMD List of Current Rules. Last revised: December 27, 2010. Available: <a href="http://www.arb.ca.gov/drdb/but/cur.htm">http://www.arb.ca.gov/drdb/but/cur.htm</a>. Accessed: December 30, 2010.
- California Department of Justice. 2008. Website for Mitigation for Greenhouse Gas Emissions. Available: <a href="http://oag.ca.gov/environment/ceqa/measures">http://oag.ca.gov/environment/ceqa/measures</a>.
- Central Valley Regional Water Quality Control Board. 2009. The Water Quality Control Plan for the California Regional Water Quality Control Board (Basin Plan) Central Valley Region The Sacramento River Basin and The San Joaquin River Basin, fourth edition. September 15, 1998. Revised September 2009. Sacramento, CA.
- City of Biggs. 1998. City of Biggs General Plan 1997–2015. Prepared by Pacific Municipal Consultants. Biggs, CA. January 12.
- City of Gridley. 2003. City of Gridley Bicycle Plan. Prepared by Upstate Planning. Chico, CA.
- City of Gridley. 2010. City of Gridley 2030 General Plan. Gridley, CA. February.
- City of Live Oak. 2010. City of Live Oak 2030 General Plan. Live Oak, CA. May 18.
- City of Yuba City and Sutter County. 2003. Yuba City-Sutter County Storm Water Management Program. August 8.
- City of Yuba City. 2002. Feather River Parkway Strategic Plan. April. Prepared by RRM. Oakdale, CA.
- City of Yuba City. 2004. City of Yuba City General Plan. Adopted by the City Council April 8, 2004, Resolution #04-049. Prepared by Dyett & Bhatia in association with Fehr & Peers Associates and Charles Salter Associates. Yuba City, CA. April.
- Feather River Air Quality Management District. 1995. Yuba-Sutter Bikeway Master Plan. Prepared by Fehr & Peers. Roseville, CA.
- Feather River Air Quality Management District. 2010. Indirect Source Review Guidelines. A Technical Guide to Assess the Air Quality Impact of Land Use Projects under the California Environmental Quality Act.
- National Invasive Species Council. 2008. 2008–2012 National Invasive Species Management Plan. Washington, DC. Natural Resources Conservation Service. 2012. Soil Data Mart. Available: <a href="http://soildatamart.nrcs.usda.gov/">http://soildatamart.nrcs.usda.gov/</a>. Accessed: October 2012.
- National Science and Technology Council. 2012. National Global Change Research Plan, 2012–2021. Available: <a href="http://library.globalchange.gov/u-s-global-change-research-program-strategic-plan-2012-2021">http://library.globalchange.gov/u-s-global-change-research-program-strategic-plan-2012-2021</a>. Accessed: June 2012.

- Pacific Municipal Consultants. 2010. City of Biggs Housing Element 2009–2014. Administrative Draft. Prepared for the City of Biggs.
- Stuart and Graham. 2009. City of Yuba City 2008 Housing Element Update. Prepared for City of Yuba City. Yuba City, CA. August 4.
- Sutter County. 1996a. Sutter County General Plan Policy Document. Yuba City, CA. November 25. Available: <a href="http://www.co.sutter.ca.us/doc/government/depts/cs/ps/cs\_planning\_services">http://www.co.sutter.ca.us/doc/government/depts/cs/ps/cs\_planning\_services</a>. Accessed: January 2011.
- Sutter County. 1996b. Sutter County General Plan. Chapter 7. November 25. Yuba City, CA. Available: <a href="http://ceres.ca.gov/planning/genplan/sutter/recreation1.html">http://ceres.ca.gov/planning/genplan/sutter/recreation1.html</a>. Accessed: December 7, 2009.
- Sutter County. 2010. Sutter County General Plan. Public Draft. Prepared in consultation with PBS&J, DKS Associates, West Yost Associates, and Willdan Financial Services. Yuba City, CA. September. Available: <a href="http://www.co.sutter.ca.us/doc/government/depts/cs/ps/gp/gp\_documents">http://www.co.sutter.ca.us/doc/government/depts/cs/ps/gp/gp\_documents</a>. Accessed: January 2011.
- Sutter County. 2011. Sutter County General Plan. Adopted by Sutter County Board of Supervisors on March 29, 2011, Resolution No. 11-029. Prepared in consultation with Atkins (formerly PBS&J), DKS Associates, West Yost Associates, and Willdan Financial Services. Yuba City, CA. March.
- Sutter County. 2008. Sutter County General Plan Update Technical Background Report. Prepared by PBS&J and West Yost Associates. Yuba City, CA. February.
- Transportation Research Board. 2000. Highway Capacity Manual. Special Report 209.
- U.S. Army Corps of Engineers. 2009. Engineering Technical Letter 1110-2-571. Guidelines for Landscape Planting and Vegetation Management at Levees, Floodwalls, Embankment Dams, and Appurtenant Structures. Washington, DC. April 10. Available:
  <a href="http://www.mvr.usace.army.mil/publicaffairsoffice/LSP1/LSPLeveeVegetation.htm">http://www.mvr.usace.army.mil/publicaffairsoffice/LSP1/LSPLeveeVegetation.htm</a>.

  Accessed: January 2012.
- U.S. Environmental Protection Agency. 2010a. Regulatory Initiatives: Climate Change. Last revised: December 23, 2010. Available: <a href="http://www.epa.gov/climatechange/initiatives/index.html">http://www.epa.gov/climatechange/initiatives/index.html</a>. Accessed: July 14, 2011.
- U.S. Environmental Protection Agency. 2010b. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2008. April 15, 2010 (EPA 430-R-10-006). Available: <a href="http://epa.gov/climatechange/emissions/downloads10/508\_Complete\_GHG\_1990\_2008.pdf">http://epa.gov/climatechange/emissions/downloads10/508\_Complete\_GHG\_1990\_2008.pdf</a>. Accessed: July 14, 2011.

Wood Rodgers. 2006. Butte County Flood Mitigation Plan. Prepared for Butte County. January.

### Appendix B Scoping Report

This appendix contains the scoping report that was prepared for and delivered to the U.S. Army Corps of Engineers and Sutter Butte Area Flood Control Agency on July 29, 2011, that documented the preparation and outcomes of the joint environmental scoping process for both the Sutter Basin Project and the Feather River West Levee Project held in June 2011.



#### Memorandum

Subject:	Public Scoping Meeting Summary for the Sutter Basin Project and Feather River West Levee Project Environmental Scoping Meetings—June 27 and 28, 2011
From:	Ingrid Norgaard, ICF International
Cc:	Chris Elliott, ICF International, Jennifer Rogers, ICF International
То:	Matt Davis, U.S. Army Corps of Engineers
Date:	July 29, 2011

#### Introduction

Two efforts are presently underway to study flood risk reduction improvements in Sutter and Butte Counties, one known as the Sutter Basin Feasibility Study, sponsored by the U.S. Army Corps of Engineers (USACE) to determine federal interest in flood risk reduction project(s), and one known as the Feather River West Levee Project (FRWLP), sponsored by the Sutter Butte Flood Control Agency (SBFCA) as a locally driven flood risk reduction project.

The two projects are being studied in close coordination because they at least partially overlap in their study areas, purpose, potential improvements, potential effects, and involved parties. Therefore, a joint scoping process is being conducted for the two projects to explain the relationship between the two efforts and obtain public input in a manner that is convenient, efficient, and integrated. It is anticipated that the two planning efforts will result in a separate Environmental Impact Study/Environmental Impact Report (EIS/EIR) for each project, in accordance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA).

#### **Sutter Basin Feasibility Study**

USACE initiated the Sutter Basin project in 2001 and is conducting a feasibility study to evaluate flood damage reduction, ecosystem restoration, and recreation opportunities within the study area. The Central Valley Flood Protection Board (CVFPB) and SBFCA, in their roles as non-federal local sponsors, are coordinating with USACE on the feasibility study. USACE, acting as the federal lead agency under NEPA, and SBFCA, acting as the state lead agency under CEQA, have determined that an EIS/EIR will be prepared to describe alternatives, potential environmental effects, and mitigation measures.

Public Scoping Meeting Summary—June 27 and 28, 2011 July 29, 2011 Page 2 of 8

#### **FRWLP**

SBFCA is planning the FRWLP to address levee deficiencies in the west levee of the Feather River from Thermalito Afterbay to the Sutter Bypass confluence to meet federal, state, and local flood protection criteria and goals. In 2010, an assessment district was enacted to provide local funding toward flood management improvements. These funds will be matched with those from the Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E) administered by the California Department of Water Resources (DWR). The purpose of the FRWLP would be to construct improvements as quickly as possible in advance of and compatible with the Sutter Basin Feasibility Study. USACE, acting as the federal lead agency under NEPA, and SBFCA, acting as the state lead agency under the CEQA, have determined that an EIS/EIR will be prepared to describe alternatives, potential environmental effects, and mitigation measures.

Development of the draft EIS/EIR to evaluate the FRWLP is underway and scheduled for public release in early 2012. A public release date for the Sutter Basin Project draft EIS/EIR has yet to be determined.

SBFCA and USACE have been carrying out scoping activities to assist them in determining the scope, and content of the environmental information for these two projects. SBFCA and USACE have had ongoing inter-agency consultation with responsible and interested agencies such as the Central Valley Flood Protection Board, Department of Fish and Game, Department of Water Resources (DWR), and California Regional Water Quality Control Board to name a few. In addition, SBFCA and USACE conducted a total of four public scoping meetings for the public and for federal and state agency staff on June 27th and June 28th, 2011. The following summarizes the outreach conducted to inform responsible and interested agencies and the public of the proposed projects, the scoping meetings, and the public comment received.

#### **Noticing**

#### **Notice of Intent/Preparation**

In compliance with the requirements set forth in CEQA, SBFCA and USACE prepared a Notice of Preparation (NOP). The NOP contained a brief description of the proposed project, project date, probable environmental effects, the date, time and place of the public scoping meetings, and contact information. The NOP solicited participation in determining the scopes and content of the environmental information of the EIS/EIRs. On May 20, 2011 the NOP was sent to Responsible and Trustee Agencies and involved federal agencies, to the State Clearinghouse, and parties previously requesting notice in writing. The comment period on the NOP was May 20, 2011 to July 08, 2011.

In compliance with the requirements set forth in NEPA, USACE prepared a Notice of Intent (NOI) describing its intent to prepare an EIS/EIR, the proposed action, the possible alternatives, and relevant scoping meeting and contact information. The NOI was posted in the Federal Register, the United States Government's official noticing and reporting publication, on May 20, 2011. The official comment period for the NOI was May 20, 2011 to July 08, 2011.

Public Scoping Meeting Summary—June 27 and 28, 2011 July 29, 2011 Page 3 of 8

#### **Mailings**

SBFCA utilized a previously developed mailing list of interested stakeholders to send an email notification encouraging attendance at the scoping meetings.

#### **Notifications**

Advertisements briefly introducing the lead agencies, the proposed projects and associated environmental review processes, and publicizing the scoping meetings were placed in the Appeal Democrat and the Gridley Herald newspapers. Both newspapers are intended to reach a local and regional public audience that residents routinely rely upon to keep them abreast of Sutter and Butte county issues. The advertisements were published in the Appeal Democrat on June 20 and June 27, 2011. The advertisements were published in the Gridley Herald on June 22 and June 24, 2011. A media release was also emailed out to a number media contacts within the region on June 22, 2011.

Attachment A contains copies of the following:

- Notice of Preparation
- Notice of Intent
- Email Notification
- Appeal Democrat and Gridley Herald Ledger Advertisements
- Media Release

#### **Public Meetings**

Four public scoping meetings were held to inform the public of the proposed projects and seek feedback on the range of alternatives, environmental effects, and issues of concern related to the Sutter Basin Project and the FRWLP. The four meetings were held at two different times for two days. On June 27, 2011 the meeting times were from 3:30 to 5:30 p.m. and 6:30 to 8:30 p.m., at the Yuba City Veterans Memorial Community Center. On June 28, 2011 the meeting times were from 3:30 to 5:30 p.m. and 6:30 to 8:30 p.m., at the Gridley Veterans Memorial Hall. The meeting locations were chosen as they are central to the region. The meeting times were chosen to accommodate both the work day schedules of public agency representatives and the general public, including residents and business owners.

The meetings were open-house style workshops in which attendees could read and view the information about the two projects and interact with project staff including SBFCA, USACE, DWR, HDR Engineering consultant staff, and ICF International (ICF) environmental consulting staff.

Twenty-six graphic display boards were on display for attendees to review. The boards described and illustrated the Sutter Basin Project and FRWLP history, purpose, need and objectives, study area, levee deficiencies and potential improvements, environmental considerations, the CEQA/NEPA process and project timeline and were on display for attendees to review. SBFCA, USACE, HDR and

Public Scoping Meeting Summary—June 27 and 28, 2011 July 29, 2011 Page 4 of 8

ICF staff were stationed at display boards to interact with public attendees and provide additional detail or answer any questions.

A Power Point presentation was given to provide a brief introduction to the Sutter Basin Project and the FRWLP including objectives, schedule, environmental compliance, and related flood control work in the region.

A fact sheet, providing an overview of the Sutter Basin Project and the FRWLP including purpose and goals, maps of the corresponding study areas, an overview of the environmental compliance process and timeline, was also made available.

Comment cards were prepared so that meeting attendees could provide feedback on the projects. These cards could be filled out during the meeting and given to a project team member.

Attachment B contains copies of the following:

- Display boards
- Power Point presentation
- Fact sheet
- Comment card templates

#### **Public Feedback**

There were 36 people in total who attended the two meetings. Twelve people attended the meeting from 3:30 to 5:00 p.m. and four people attended the meeting from 6:30 to 8:00 p.m. on June 27, 2011. Fifteen people attended the meeting from 3:30 to 5:00 p.m. and five people attended the meeting from 6:30 to 8:00 p.m. on June 28, 2011.

Five comments were received from the public regarding the EIS/EIRs during the scoping period. Below is a list summarizing the comments received.

- A request was made to keep the process for the Sutter Basin Feasibility Study on schedule so the state will be able to release EIP funding for the FRWLP.
- A comment was received regarding the importance of coordinating with the Lower Feather River Corridor Management Project so not to have to duplicate efforts on environmental studies.
- A comment was received in favor of the option of putting in a levee setback in the Nelson Slough area.
- A comment was received in opposition of the project.
- A comment addressed two issues. The first comment pertains to the lack of attention to the east levee of the Sutter Bypass. The second comment suggested using a perimeter levee around Yuba City, or a J levee on the south and west side.

Public Scoping Meeting Summary—June 27 and 28, 2011 July 29, 2011 Page 5 of 8

Attachment C contains copies of the following:

- Comments received from all interested parties (including those transcribed by court reporter)
- Attendee sign-in sheet templates

#### **Next Steps**

The comments received during the scoping period will assist in determining which issues are evaluated in detail in both the Sutter Basin Project and FRWLP EIS/EIRs. Once alternatives have been developed based on the scoping process and preexisting information, they will be analyzed, and draft EIS/EIRs will be developed. Upon the release of the draft EIR/EIS, the public will have 45 days to comment on the document. Additionally, at least one public hearing will be held so the public and agencies can learn more about both of the draft EIR/EISs, ask questions regarding the analysis, and provide comments. At these meetings, the alternatives will be presented and explained.

Development of the draft EIS/EIR to evaluate the FRWLP is underway and scheduled for public release in early 2012. A public release date for the Sutter Basin Project draft EIS/EIR has yet to be determined.

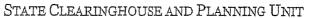
#### **Attachment A**

- Notice of Preparation
- Notice of Intent
- Email Notification
- Appeal Democrat and Gridley Herald Ledger Advertisements
- Media Release



#### STATE OF CALIFORNIA

#### GOVERNOR'S OFFICE of PLANNING AND RESEARCH





#### Notice of Preparation

May 20, 2011

To:

Reviewing Agencies

Re:

Sutter Basin Feasibility Study and Feather River West Levee Project

SCH# 2011052062

Attached for your review and comment is the Notice of Preparation (NOP) for the Sutter Basin Feasibility Study and Feather River West Levee Project draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely

Scott Morgan .

Director, State Clearinghouse

I Mugan

Attachments cc: Lead Agency

#### Document Details Report State Clearinghouse Data Base

SCH# 2011052062

Project Title Sutter Basin Feasibility Study and Feather River West Levee Project

Lead Agency Sutter Butte Flood Control Agency

Type NOP Notice of Preparation

Description Two efforts are presently underway to study flood risk reduction improvements in Sutter and Butte

Counties, one known as the Sutter Basin Feasibility Study, sponsored by the U.S. Army Corps of Engineers (USACE) to determine federal interest in flood risk reduction project(s), and one known as the Feather River West Levee Project (FRWLP), sponsored by the Sutter Butte Flood Control Agency

Fax

(SBFCA) as a locally driven flood risk reduction project.

#### **Lead Agency Contact**

Name Ingrid Norgaard

Agency Sutter Butte Flood Control Agency

Phone 916 737-3000 email inorgaard@icfi.com

Address c/o ICF International

630 K Street, Suite 400

City Sacramento State CA Zip 95814

#### **Project Location**

County Sutter, Butte

City

Region

Cross Streets Lat / Long

\_\_\_\_\_\_

Parcel No.

Township Range Section Base

#### Proximity to:

Highways

**Airports** 

. Railways

Waterways

Schools

Land Use

Project Issues Aesthetic/Visual; Agricultural Land; Air Quality; Biological Resources; Archaeologic-Historic;

Geologic/Seismic; Toxic/Hazardous; Water Quality; Landuse; Other Issues; Minerals; Noise;

Population/Housing Balance; Public Services; Recreation/Parks; Economics/Jobs; Traffic/Circulation

#### Reviewing Agencies

Date Received 05/20/2011

Resources Agency; Department of Conservation; Central Valley Flood Protection Board; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources;

Department of Fish and Game, Region 2; Office of Emergency Management Agency, California; Native American Heritage Commission; State Lands Commission; Caltrans, District 3; State Water Resources Control Board, Division of Water Quality; Regional Water Quality Control Bd., Region 5 (Sacramento);

Regional Water Quality Control Bd., Region 5 (Redding)

Start of Review 05/20/2011

End of Review 06/20/2011

	1														
	Quality Cor	Evalu (KWQCB)  RWQCB 1  Cathleen Hudson	North Coast Region (1)  RWQCB 2  Environmental Document	San Francisco Bay Region (2)  RWQCB 3  Central Coast Region (3)	RWQCB 4 Teresa Rodgers Los Angeles Region (4)	Central Valley Region (5)  RWQCB 5F  Central Valley Recion (5)	Fresno Branch Office  RWQCB 5R  Central Valley Region (5)	Redding Branch Office  RWQCB 6  Lahontan Region (6)	RWQCB 6V Lahontan Region (6) — Victorville Branch Office	RWQCB 7 Colorado River Basin Region (7)	RWQCB 8 Santa Ana Region (8) RWQCB 9	San Diego Region (9)	Other	Last Updated on 01/10/11	
当う コーニー	Caltrans, District 8 Dan Kopulsky	Galtrans, District 9 Gayle Rosander Caltrans, District 10	Tom Dumas  Caltrans, District 11 Jacob Amstrong	Call EPA	Air Resources Board Airport Projects Jim I emer	Transportation Projects Douglas Ito	Mike Tollstrup  State Water Decourage Control	Board Regional Programs Unit Division of Financial Assistance	State Water Resources Control Board	Student Intern, 401 Water Quality Certification Unit Division of Water Quality	State Water Resouces Control Board Steven Herrera Division of Water Rights	Lept. or loxic substances Control CEQA Tracking Center Department of Pesticide Regulation CEQA Coordinator			
County: JULIA	Heritage	Debble Treadway  Public Utilities Commission Leo Wong	Santa Monica Bay Restoration Guangyu Wang  State Lands Commission Marina Brand	Tahoe Regional Planning Agency (TRPA) Cherry Jacques	Business, Trans & Housing Caltrans - Division of		California Highway Patrol Scott Loetscher Office of Special Projects	Housing & Community Development CEQA Coordinator	Tousing rolley bivision	Call		Caltrans, District 3 Bruce de Terra Caltrans, District 4 Lisa Carboni	Caltrans, District 5 David Murray	Michael Navarro  Caltrans, District 7  Elmer Alvarez	
	Fish & Game Region 1E Laurie Hamsberger			Fish & Game Region 5  Don Chadwick Habitat Conservation Program	Gabrina Gatchel Habitat Conservation Program Fish & Game Region 6 I/M	brad henderson Inyo/Mono, Habitat Conservation Program  Dept. of Fish & Game M	George Isaac Marine Region	Uther Departments  Food & Agriculture Steve Shaffer	Depart, of General Services Public School Construction	Dept. of General Services Anna Garbeff Environmental Services Section	Dept. of Public Health Bridgette Binning Dept. of Health/Drinking Water	Independent Commissions,Boards  Delta Protection Commission	Linda Flack  Cal EMA (Emergency Management Agency)	Dennis Castrillo Governor's Office of Planning & Research State Clearinghouse	. · ·
The second of th	ources Agency	Resources Agency Nadell Gayou Deot. of Boating & Waterways	Mike Sotelo California Coastal Commission	Elizabeth A. Fuchs Colorado River Board Gerald R. Zimmerman	Dept. of Conservation Rebecca Salazar California Energy Commission	Eric Knight Cal Fire Allen Robertson	Central Valley Flood Protection Board James Herota	Office of Historic Preservation Ron Parsons	Dept of Parks & Recreation Environmental Stewardship Section	California Department of Resources, Recycling & Recovery	Sue O'Leary S.F. Bay Conservation & Dev't. Comm.	Steve McAdam  Dept. of Water Resources  Resources Agency  Nadell Gayou	Conservancy	Land Game Depart. of Fish & Game Scott Flint	Environmental Services Division Fish & Game Region 1

Fish & Game Region 1 Donald Koch

#### **POLICY JUSTIFICATION**

#### Kingdom of Saudi Arabia - Night Vision Equipment

The Government of the Kingdom of Saudi Arabia has requested a possible sale of 200 High-performance In-Line Sniper Sight (HISS) Thermal Weapon Sights - 1500 meter, 200 MilCAM Recon III LocatIR Long Range, Light Weight Thermal Binoculars with Geo Location, 7,000 Dual Beam Aiming Lasers (DBAL A2), 6000 AN/PVS-21 Low Profile Night Vision Goggles (LPNVG), spare and repair parts, support equipment, technical documentation and publications, translation services, training, U. S. government and contractor technical and logistics support services, and other related elements of logistical and program support. The estimated cost is \$330 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been, and continues to be, an important force for political stability and economic progress in the Middle East.

The proposed sale will augment Saudi Arabia's capability to meet current and future threats from potential adversaries during operations conducted at night and during low visibility conditions. The Royal Saudi Land Forces (RSLF) are responsible for regional, perimeter, and border security operations. This proposed sale meets their defense and counter-terrorism requirements to deter current insurgent activity along their southern border and contributes to their overall military posture. The RSLF already has night vision devices in its inventory and will have no difficulty absorbing this night vision equipment into its inventory.

The proposed sale of this equipment will not alter the basic military balance in the region.

The prime contractors will be FLIR Inc. in Boston, Massachusetts and Laser Devices, Inc. in Monterey, California. There are no known offset agreements proposed in connection with this potential sale.

Implementation of this sale will not require the assignment of any U.S. Government or contractor representatives to recipient.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 2011–12405 Filed 5–19–11; 8:45 am]

#### DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Notice of Intent To Prepare Draft Environmental Impact Statements/ Environmental Impact Reports for the Sutter Basin Feasibility Study and the Section 408 Permission for the Feather River West Levee Project, Sutter and Butte Counties, CA

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers; DoD.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969, as amended, and the California Environmental Quality Act (CEQA), the U.S. Army Corps of Engineers (USACE) intends to prepare a separate Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) for each of the following related flood risk management study efforts in northcentral California: a Feasibility Study of flood risk management and related water resources problems in the Sutter Basin conducted by USACE under the authority of the Flood Control Act of 1962 (Pub. L. 87-874); and under Section 14 of the Rivers and Harbors Act of 1899 (as amended) (33 U.S.C. 408), and Section 404 of the Clean Water Act (33 U.S.C. 1344), the proposed Feather River West Levee Project (FRWLP), sponsored by the Sutter Butte Flood Control Agency (SBFCA) as a locally driven flood management improvement project. The two projects are being studied in close coordination because they partially overlap in their study areas, purpose, potential improvements, potential effects, and involved parties. Therefore, a joint scoping process is being conducted for the two projects to explain the relationship between the two efforts and obtain public input in a manner that is convenient, efficient, and integrated. Figures of the two project areas can be viewed at the SBFCA Web site at: http://www.sutterbutteflood.org/ index.php/notices documents.

Sutter Basin Feasibility Study. On March 20, 2000, the State of California entered into a feasibility cost-sharing agreement (FCSA) with USACE to initiate a feasibility study. An amendment to the FCSA was signed in 2010, which included SBFCA as a non-Federal sponsor. The purpose of the study is to address flood risk, ecosystem restoration and recreation-related issues in the study area. If a Federal interest is determined, the study would result in a decision document, a General Investigation Feasibility Study report and EIS/EIR, which would be the basis for a recommendation to Congress for authorization. The Central Valley Flood Protection Board (CVFPB) and SBFCA are coordinating with USACE on the feasibility study. USACE, as the Federal lead agency under NEPA, and SBFCA, as the state lead agency under CEQA in coordination with CVFPB, have determined that an EIS/EIR will be prepared to describe alternatives, potential environmental effects, and mitigation measures.

FRWLP. SBFCA is planning the FRWLP to construct improvements to the west levee of the Feather River from Thermalito Afterbay to the Sutter Bypass confluence to meet Federal, state, and local flood protection criteria and goals. In 2010, an assessment district was enacted to provide local funding toward flood management improvements. These funds may be matched with those from the Early Implementation Program (funded through previous state bonds) administered by the California Department of Water Resources (DWR). In order to implement the project, the sponsor must acquire permission from USACE to alter the Federal project under Section 14 of the Rivers and Harbors Act of 1899 (as amended) (33 U.S.C. 408 or, Section 408). USACE also

has authority under Section 404 of the Clean Water Act (33 U.S.C. 1344) over activities involving the discharge of dredged or fill material to waters of the United States, which are known to be in the project area. The purpose of the FRWLP would be to construct improvements as quickly as possible in advance of and compatible with the Sutter Basin Project. USACE, acting as the Federal lead agency under NEPA, and SBFCA, acting as the state lead agency under the CEQA in coordination with CVFPB, have determined that an EIS/EIR will be prepared to describe alternatives, potential environmental effects, and mitigation measures.

DATES: Public scoping meetings will be held on Monday, June 27 at 3:30 p.m. and 6:30 p.m. at the Veterans Memorial Community Building, 1425 Veterans Memorial Circle, Yuba City, CA and on Tuesday, June 28 at 3:30 p.m. and 6:30 p.m. at the Veterans Memorial Hall, 245 Sycamore Street, Gridley, CA. Send written comments by July 8, 2011 (see ADDRESSES).

ADDRESSES: Written comments and suggestions concerning the scope and content of the environmental information may be submitted to Mr. Matt Davis, U.S. Army Corps of Engineers, Sacramento District, Attn: Planning Division (CESPK–PD–R), 1325 J Street, Sacramento, CA 95814. Requests to be placed on the mailing list also should be sent to this address.

#### FOR FURTHER INFORMATION CONTACT:

Questions about the proposed actions and environmental review process should be addressed to Matt Davis at (916) 557–6708, e-mail:

Matthew.G.Davis@usace.army.mil (see ADDRESSES).

#### SUPPLEMENTARY INFORMATION:

1. Proposed Action. Sutter Basin Feasibility Study. USACE is conducting a feasibility study to evaluate structural and non-structural flood-riskmanagement measures, including reoperation of existing reservoirs; improvements to existing levees; construction of new levees; and other storage, conveyance, and non-structural options. The Sutter Basin study area covers approximately 285 square miles and is roughly bounded by the Feather River, Sutter Bypass, Wadsworth Canal, Sutter Buttes, and Cherokee Canal. Flood waters potentially threatening the study area originate from the Feather River watershed and/or the upper Sacramento River watershed, above Colusa Weir. The study area is essentially encircled by project levees and the high ground of Sutter Buttes. Geotechnical analysis and historical performance during past floods

indicates the project levees are at risk of failure due to underseepage. The risk of levee failure coupled with the consequence of deep flooding presents a threat to public safety and property. Considering the collective changes to riparian and aquatic ecosystems brought about by agriculture, urbanization, mining, and flood risk management and water supply infrastructure, and the national concern for environmental quality and protection, every opportunity to restore and protect natural resources should be taken whenever changes in the water management system are being contemplated. Ecosystem restoration measures likely would include restoration of floodplain function and habitat. Recreation measures include those outdoor recreation opportunities associated with sustainable water resource development. The feasibility phase of this project is cost-shared 50% Federal, 50% non-Federal with the project sponsors, the State of California CVFPB and the SBFCA. The study will focus on alternatives in the study area that comprise flood risk management, ecosystem restoration, and recreation management measures. As part of the study, an EIS/EIR will be prepared with USACE as the lead agency under NEPA and SBFCA in cooperation with CVFPB as the lead agency under CEQA.

FRWLP. SBFCA is proposing a levee improvement project along the Feather River west levee under the California DWR's Early Implementation Program to expeditiously complete flood-risk reduction measures in advance of the Sutter Basin Feasibility Study. Known as the FRWLP, the project proposes to construct levee improvements between the Thermalito Afterbay and the Feather River/Sutter Bypass confluence. Primary deficiencies of the levee include through-seepage, under-seepage, and embankment instability (e.g., overly steepened slopes). Alternatives considered may include measures such as slurry cutoff walls, seepage berms, stability berms, internal drains, relief wells, sheet-pile walls, slope flattening, and potential new levee alignments. As part of the project, an EIS/EIR is being prepared. USACE has authority under Section 14 of the Rivers and Harbors Act of 1899 (as amended) (33 U.S.C. 408), over alterations to Federal flood control project levees and any such alterations as proposed by SBFCA are subject to approval by USACE. USACE also has authority under Section 404 of the Clean Water Act (33 U.S.C. 1344) over activities involving the discharge of dredged or fill material to waters of the United States, which are known to be in

the project area. Due to these authorities, USACE is acting as the lead agency for the EIS pursuant to NEPA. SBFCA will be acting as the lead agency for the EIR according to CEQA as an agency of the State of California with delegated authority to approve the project.

- 2. Alternatives. The EIS/EIRs will consider several alternatives for reducing flood damage. Alternatives analyzed during the investigation will consist of a combination of one or more measures to reduce the risk of flooding. These measures include installing cutoff walls, and constructing seepage berms.
  - 3. Scoping Process.
- a. A series of public scoping meetings will be held on June 27 and 28, 2011, to present information to the public and to receive comments from the public on both the feasibility study and the FRWLP. These meetings are intended to initiate the process to involve concerned individuals, and local, state, and Federal agencies.
- b. Significant issues to be analyzed in depth in the environmental documents include effects on hydraulics, wetlands and other waters of the U.S., vegetation and wildlife resources, special-status species, aesthetics, cultural resources, recreation, land use, fisheries, water quality, air quality, transportation, and socioeconomics; and cumulative effects of related projects in the study area.
- c. USACE is consulting with the State Historic Preservation Officer to comply with the National Historic Preservation Act and with the U.S. Fish and Wildlife Service and National Marine Fisheries Service to comply with the Endangered Species Act. USACE also is coordinating with the U.S. Fish and Wildlife Service to comply with the Fish and Wildlife Coordination Act.
- d. A 45-day public review period will be provided for individuals and agencies to review and comment on the draft environmental documents. All interested parties are encouraged to respond to this notice and provide a current address if they wish to be notified of the draft EIS/EIR circulation.
- 4. Availability. The draft EIS/EIR for the FRWLP is scheduled to be available for public review and comment in late 2011. The draft EIS/EIR for the Sutter Basin Feasibility Study is scheduled to be available for public review and comment in mid 2012.

Dated: May 12, 2011.

#### Andrew B. Kiger,

LTC, EN, Commanding.

[FR Doc. 2011-12510 Filed 5-19-11; 8:45 am]

BILLING CODE 3720-58-P

#### **DEPARTMENT OF DEFENSE**

#### Department of the Army; Corps of Engineers

Notice of Availability of the Final Programmatic Environmental Impact Statement for the Mechanical and Artificial Creation and Maintenance of Emergent Sandbar Habitat in the Riverine Segments of the Upper Missouri River, Missouri River Basin, United States

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD. **ACTION:** Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended, the U.S. Army Corps of Engineers intends to file a Final Programmatic Environmental Impact Statement (FPEIS) for the Mechanical and Artificial Creation and Maintenance of Emergent Sandbar Habitat on the Riverine Segments of the Upper Missouri River with the U.S. Environmental Protection Agency. The FEIS is available for final public review. Details on the proposed action, location and areas of environmental concern addressed in the FPEIS are provided below under SUPPLEMENTARY INFORMATION.

**DATES:** The review period will be open 30 days from the date of this notice. The Record of Decision is anticipated to be issued in August, 2011.

ADDRESSES: Written comments should be sent to: Department of the Army; Corps of Engineers, Omaha District; CENWO-PM-AC; ATTN: Emergent Sandbar Habitat Programmatic EIS; 1616 Capitol Avenue; Omaha, NE 68102– 4901, or e-mailed to:

Cynthia.s.upah@usace.army.mil.
Comments must be postmarked,
e-mailed, or otherwise submitted no
later than June 13, 2011. Copies of the
FPEIS have been sent to all agencies and
individuals who participated in the
scoping process or public hearings and
to those requesting copies. The FEIS is
available online at: http://

www.moriverrecovery.org/mrrp/MRRP\_PUB\_DEV.download\_documentation\_peis. To obtain a copy, please contact Ms. Cynthia Upah.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Upah, Project Manager, by telephone: (402) 995–2672, by mail: 1616 Capitol Avenue, Omaha, NE 68102–4901, or by e-mail: Cynthia.s.upah@usace.army.mil. For inquires from the media, please contact the USACE Omaha District Public Affairs Officer (PAO), Ms. Monique Farmer by telephone: (402) 995–2416,

by mail: 1616 Capitol Avenue, Omaha, NE 68102, or by e-mail: Monique.l.farmer@usace.army.mil.

#### SUPPLEMENTARY INFORMATION: 1.

Background. The Emergent Sandbar Habitat (ESH) program is being implemented by the U.S. Army Corps of Engineers (Corps) for the benefit of the interior population of the Interior least tern (least tern) and the northern Great Plains piping plover (piping plover). This implementation program resulted from a Biological Opinion (BiOp) issued by the U.S. Fish and Wildlife Service (USFWS) in which the Reasonable and Prudent Alternative (RPA) called for the Corps to provide sufficient ESH acreage in order to meet biological metrics (fledge ratios) to avoid jeopardizing continued existence of the species, as defined by the Endangered Species Act (ESA).

The FPEIS is needed to provide National Environmental Policy Act (NEPA) coverage for the mechanical and artificial construction of ESH in the riverine segments of the Upper Missouri River, pursuant to the 2003 BiOp Amendment RPA IV(b) 3, and to compare impacts among a range of alternatives. The goal is to inform the selection of a preferred alternative that allows for the creation and replacement of sufficient habitat to support tern and plover populations on the Missouri River in a safe, efficient and costeffective manner that minimizes negative environmental consequences.

Alternatives to the proposed project that are considered in the FPEIS include (1) no action, including existing program activities and no action; (2) and 6 action alternatives of various acreage creation. Environmental issues addressed in the FPEIS include hydrology, water quality, aggradation and degradation, biological resources, air quality, noise and recreation.

After detailed consideration of the environmental and social impacts, and cumulative effects, of the Alternatives, the Corps has identified an Adaptive **Management Implementation Process** (AMIP) as the preferred alternative, and not one of the specific acreage alternatives. The key aspect of the AMIP is that, rather than selecting a specific acreage alternative and pursuing such construction, actions would be progressively implemented with the focus on monitoring a combination of biological and physical metrics (measurements). Implementation of progressively larger acreage amounts of habitat would continue until the desired biological response is attained and sustained.

#### Join Us To Learn More About Local Flood Risk Reduction Efforts

Join the U.S. Army Corps of Engineers (USACE) and the Sutter Butte Flood Control Agency (SBFCA) for a public scoping meeting to learn about two proposed flood risk reduction efforts in Sutter and Butte counties. USACE's Sutter Basin Feasibility Study will look at potential improvements throughout the Sutter Basin, while SBFCA's Feather River West Levee Project is proposing to repair 44 miles of the river's west levee.

The public is encouraged to attend these meetings to comment on the scope of the proposed projects and the preparation of related environmental documents.

Meeting Dates & Times
June 27 at 3:30 p.m. and 6:30 p.m.
Veterans Memorial Community Building
1425 Veterans Memorial Circle, Yuba City

June 28 at 3:30 p.m. and 6:30 p.m. Gridley Veterans Memorial Hall 249 Sycamore Street, Gridley

A presentation will begin 30 minutes after the start of each meeting. The same information will be presented at each meeting.

If you have questions or need special assistance or accommodations at a meeting, call 916-231-9618 at least 72 hours in advance of the meeting you plan to attend.





#### Join Us To Learn More About Local Flood Risk Reduction Efforts

Join the U.S. Army Corps of Engineers (USACE) and the Sutter Butte Flood Control Agency (SBFCA) for a public scoping meeting to learn about two proposed flood risk reduction efforts in Sutter and Butte counties. USACE's Sutter Basin Feasibility Study will look at potential improvements throughout the Sutter Basin, while SBFCA's Feather River West Levee Project is proposing to repair 44 miles of the river's west levee.

The public is encouraged to attend these meetings to comment on the scope of the proposed projects and the preparation of related environmental documents.

Meeting Dates & Times
June 27 at 3:30 p.m. and 6:30 p.m.
Veterans Memorial Community Building
1425 Veterans Memorial Circle, Yuba City

June 28 at 3:30 p.m. and 6:30 p.m. Gridley Veterans Memorial Hall 249 Sycamore Street, Gridley

A presentation will begin 30 minutes after the start of each meeting. The same information will be presented at each meeting.

If you have questions or need special assistance or accommodations at a meeting, call 916-231-9618 at least 72 hours in advance of the meeting you plan to attend.







www.sutterbutteflood.org • www.spk.usace.army.mil

#### FOR IMMEDIATE RELEASE CONTACT: INGRID NORGAARD

EMAIL: <u>inorgaard@icfi.com</u> PHONE: 916-737-3000

#### Agencies Hosting Public Meetings Related to Proposed Flood Improvements in Sutter and Butte Counties

The public is invited to attend to provide input on environmental process

**Yuba City, June 22, 2011**—The U.S. Army Corps of Engineers' (USACE) Sacramento District and the Sutter Butte Flood Control Agency (SBFCA) will hold four public scoping meetings on June 27 and 28 to provide the public an opportunity to comment on proposed regional flood risk management projects.

The purpose of the USACE's Sutter Basin Project is to address flood risk management, ecosystem restoration, and recreation issues in the Sutter Basin study area. The project is currently in the feasibility study phase. The study area covers approximately 285 square miles and is roughly bounded by the Feather River, Sutter Bypass, Wadsworth Canal, Sutter Buttes and Cherokee Canal.

SBFCA is planning the Feather River West Levee Project (FRWLP) to address levee deficiencies found along 44 miles of the west levee of the Feather River from the Thermalito Afterbay south to the Sutter Bypass. The west levee provides flood risk management benefits to the cities of Yuba City, Gridley, Live Oak, and Biggs and portions of unincorporated areas of Butte and Sutter counties. Measures are being evaluated to meet Federal, state, and local flood protection criteria and goals.

The Sutter Basin Project and FRWLP are being studied in close coordination because of related study areas, purpose, potential measures and potential effects. It is anticipated that two separate environmental impact statements/environmental impact reports (EIS/EIR) will be developed—one for the Sutter Basin Project and one for FRWLP. The public release of the draft EIS/EIR to evaluate FRWLP is scheduled for early 2012. The release of the Sutter Basin Project's draft EIS/EIR has yet to be determined. The California Department of Water Resources and Central Valley Flood Protection Board are also involved in these two efforts.

Combined and coordinated scoping for the two efforts is being conducted to ensure an efficient process for interested stakeholders. Public input will be solicited about the content of the environmental documents. Please join us at one of four scoping meetings to provide input.

#### City of Yuba City

June 27 at 3:30 p.m. *and* 6:30 p.m. Veteran's Memorial Community Bldg. 1425 Veterans Memorial Circle, Yuba City

#### **City of Gridley**

June 28 at 3:30 p.m. and 6:30 p.m. Gridley Veteran's Memorial Hall 249 Sycamore Street, Gridley A presentation will be given 30 minutes after each meeting begins. The content of all four meetings will be the same. For questions about the meetings or to make special accommodations for attendees, contact Ms. Norgaard at 916-737-3000 or via email at inorgaard@icfi.com.

Learn more about the Sutter Basin Project at www.spk.usace.army.mil and about the FRWLP at www.sutterbutteflood.org.

###

#### **Attachment B**

- Display boards
- Power Point presentation
- Fact sheet
- Comment card templates

# Station 2 - Overview, Purpose, and Objectives 110x13

2A
About the SBP
36x18

2D Inside Look at a Levee 30x24 2F
About the FRWLP
36x18

2B
SBP Study Area MAP
36x24

Typical Levee Deficiencies
30x24

FRWLP Study Area MAP 36x24

CDDT: 6 I: 6

FDWIDTime Cline O Funding

# Station 3 - Potential Measures 110x13

3A	3B	3C	3D
Slurry Wall	Stability Berm	Seepage Berm	Relief Well
25x20	25x20	25x20	25x20
3E	3F	3G	3H
Sheet-Pile Wall	Slope Flattening	Internal Drain	New/Relocated Levee
25x20	25x20	25x20	25x20
31	3J	3K	<b>3L</b>

Non-Structural

Re-Operation

**Ecosystem Restoration** 

Recreation

# Station 4 - Environmental Process 110x13

4A
About NEPA/CEQA
24x32

4B
Scoping
24x32

4C Enviro Issues 24x32 4D
Regulatory Compliance
24x32

4E
SBP Photo
52x32

4F
FRWLP Photo
52x32

# Welcome to the Sutter Basin Project & Feather River West Levee Project Environmental Scoping Meeting





# Overview, Purpose, and Objectives

# About the Sutter Basin Project

In 2000, the State of California and USACE entered into a cost-sharing agreement to initiate a feasibility study within the Sutter Basin. An amendment of the cost-sharing agreement was signed in July 2010 to include SBFCA as a non-Federal sponsor. The purpose of the feasibility study is to address flood risk management, ecosystem restoration, and recreation issues in the study area.

The Sutter Basin Project feasibility study evaluates approximately 285 square miles that are roughly bounded by the Feather River, Sutter Bypass, Wadsworth Canal, Sutter Buttes, and Cherokee Canal. The study area is essentially encircled by project levees and the high ground of the Sutter Buttes. Past flood events and geotechnical analysis show these levees have a higher probability of failure related to through-and under-seepage than levees designed to meet current standards. Additionally, the levees are at risk of overtopping from floods greater than they are designed to withstand.

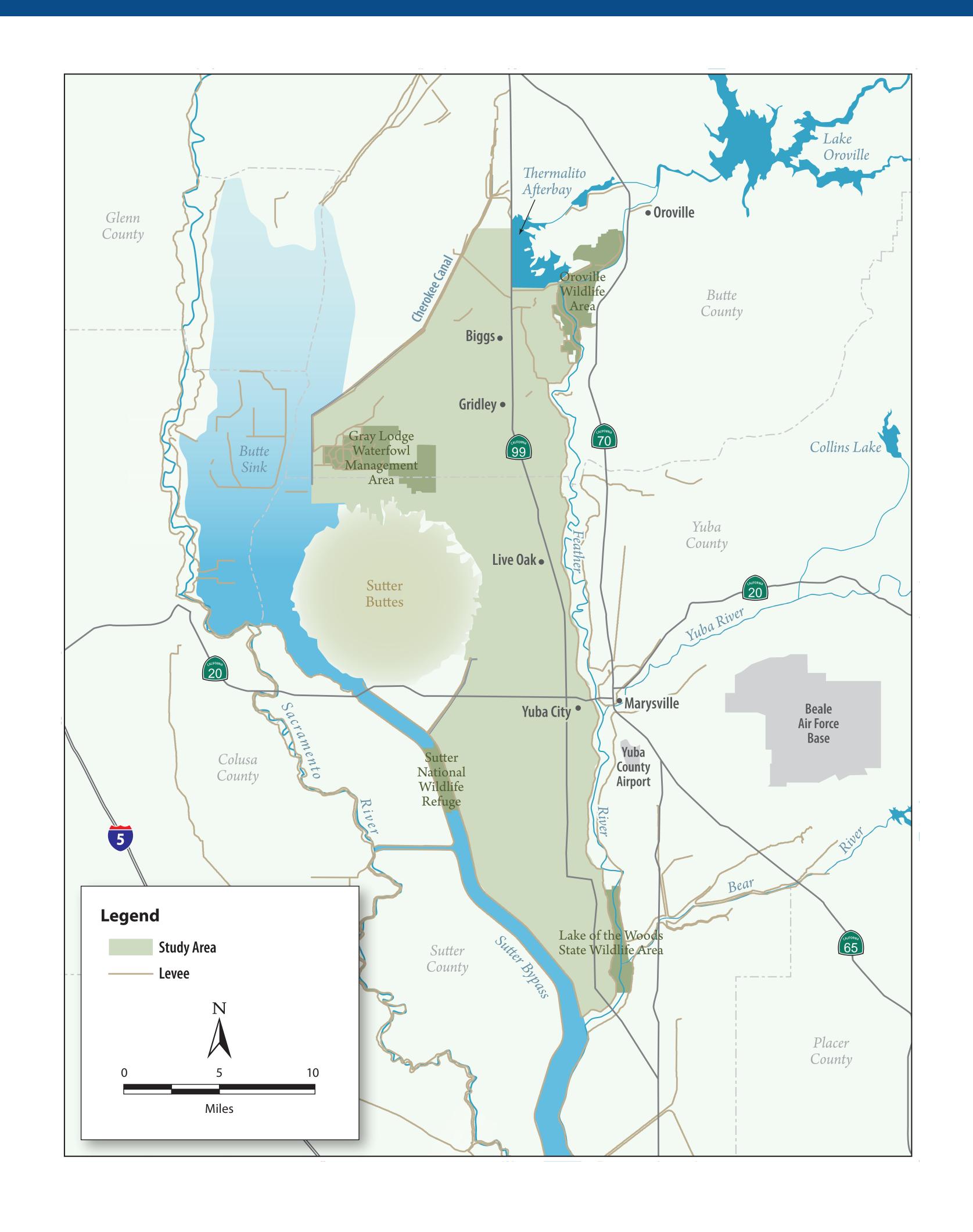
As part of the Sutter Basin Project feasibility study, USACE is evaluating a variety of flood risk management measures that could include re-operation of reservoirs; improvements to existing levees; construction of new levees; other storage, conveyance, and non-structural options; and measures that could potentially restore the ecosystem within the study area and develop or expand recreation facilities.

This study will be the basis for a recommendation to Congress to address water resources and related issues within the study area.

6/22/11 1 1

# Sutter Basin Project Area

2B - SBP Study Area.indd 1

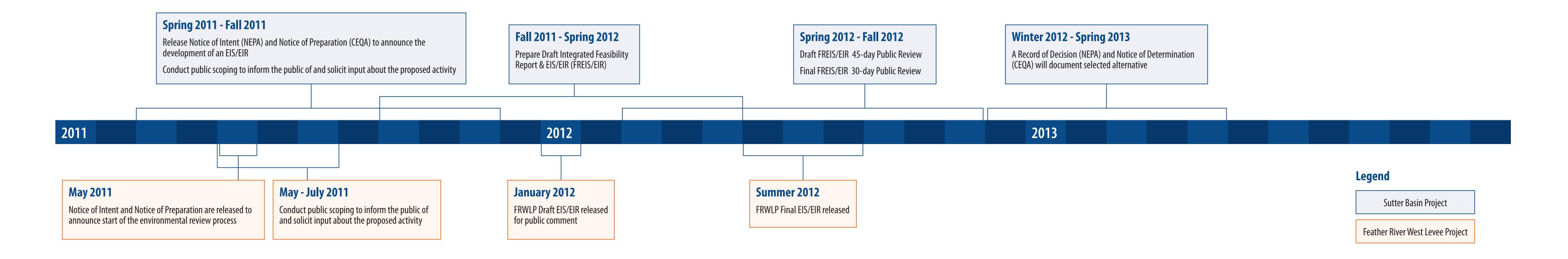


# Sutter Basin Project Funding and Timeline

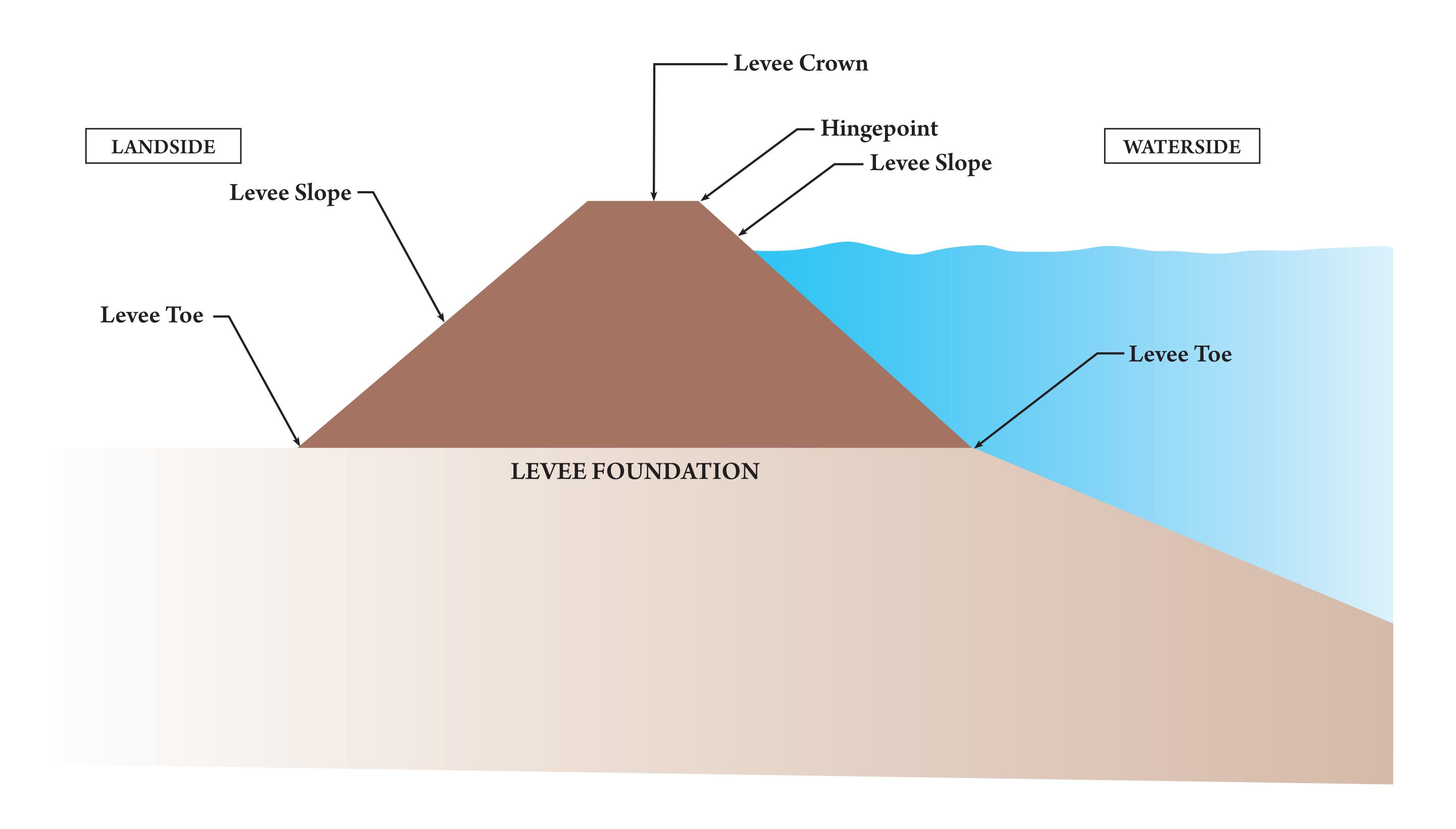
## Funding

The feasibility study phase of this project is cost-shared; USACE will fund 50% and SBFCA and the State of California will fund the remaining 50% of the project.

### Timeline

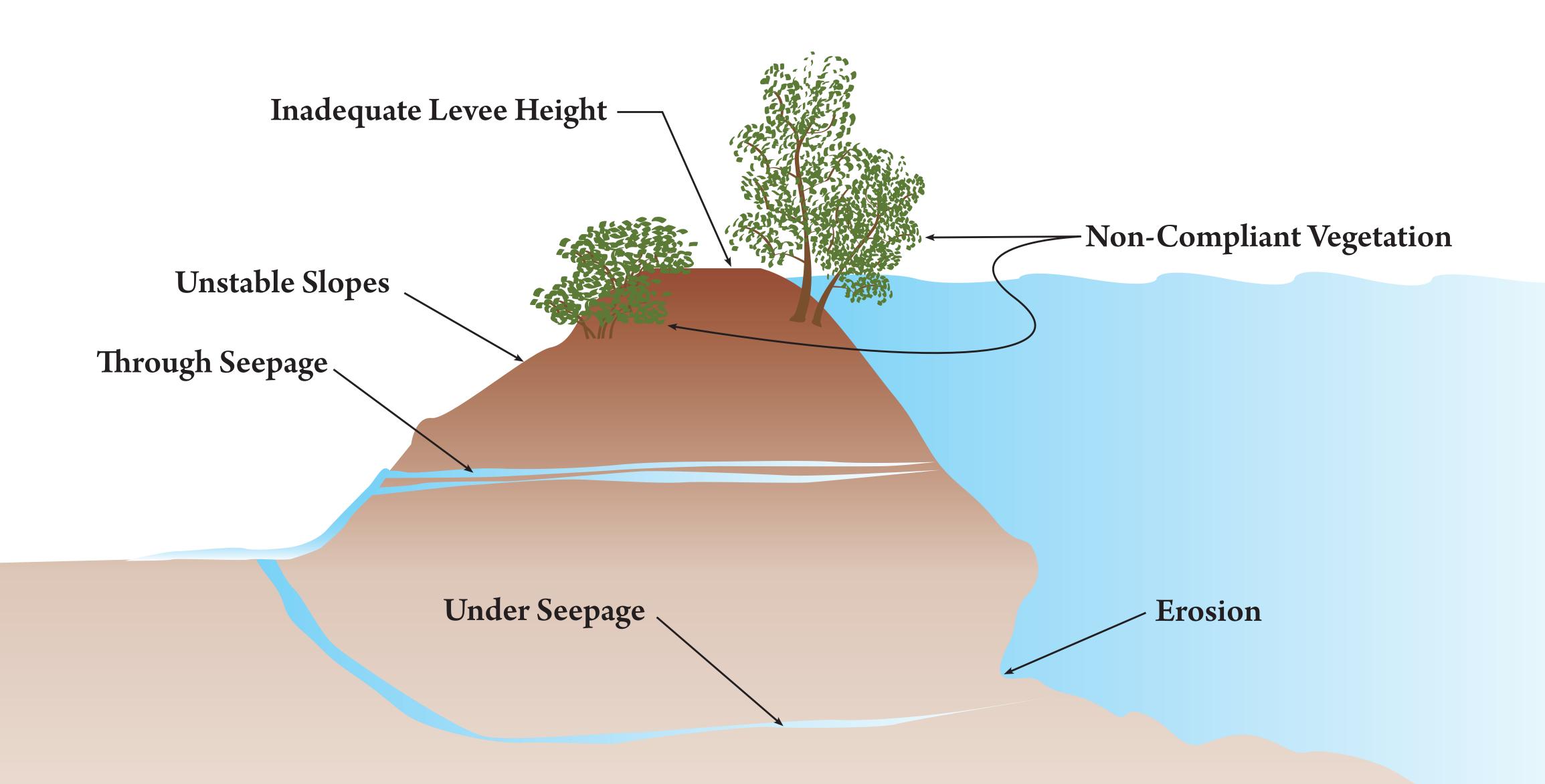


## An "Inside" Look at a Levee



Look at Levee.indd 1

# Typical Levee Deficiencies



- Unstable Slopes irregular or overly steep slopes compromise the levee structure
- Inadequate levee height levee height may be too low relative to predicted water levels
- Non-Compliant Vegetation can lead to levee instability and hinder levee monitoring and maintenance
- Erosion water flow, wakes and waves, remove soil material, damaging the levee
- Seepage

6/21/11 2:13 PN

# About the Feather River West Levee Project

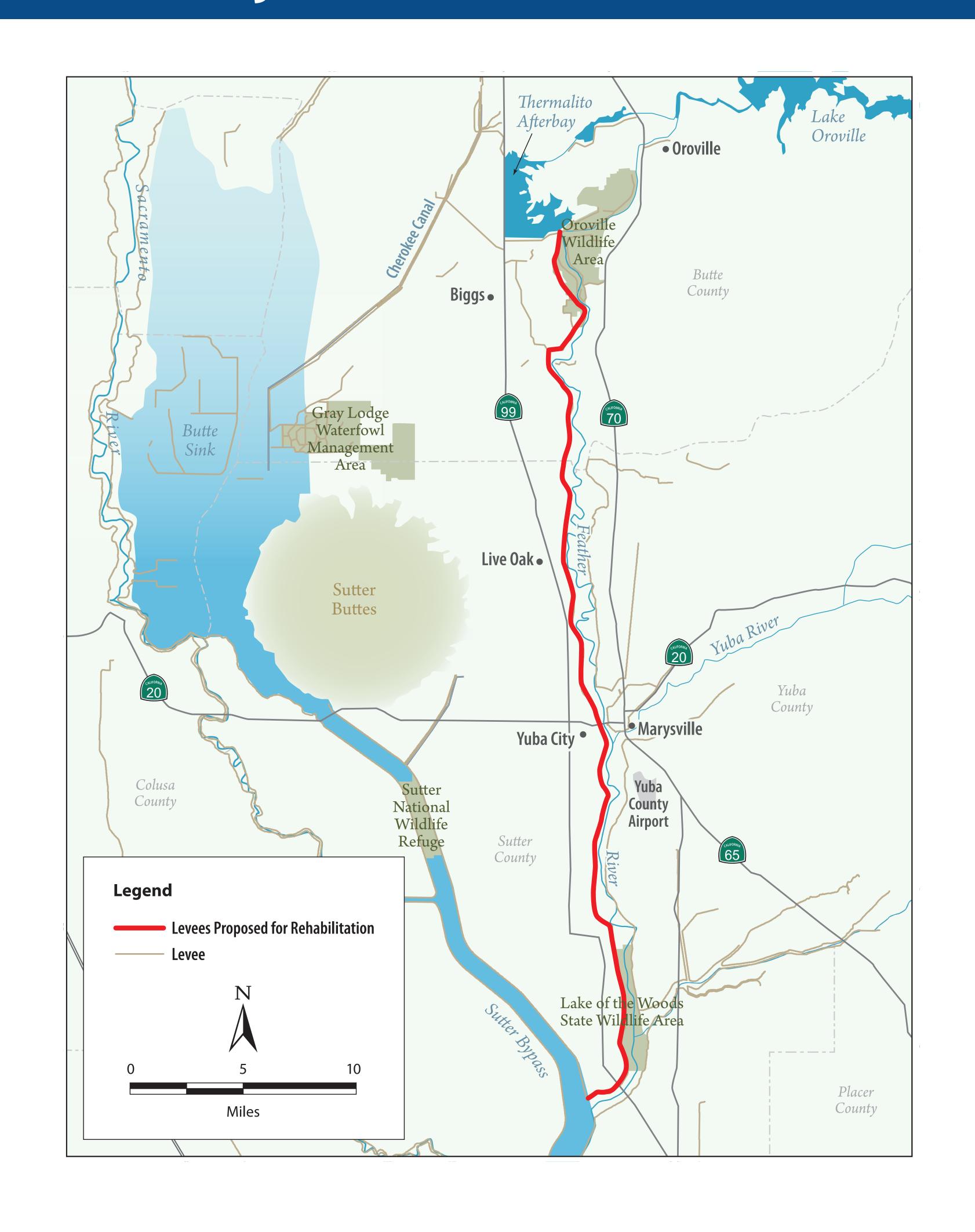
Communities in both Butte and Sutter Counties have an unfortunate historical knowledge of devastating flood events within the region. Sutter Butte Flood Control Agency (SBFCA) is planning the Feather River West Levee Project (FRWLP) to address levee deficiencies found along 44 miles of the west levee of the Feather River from the Thermalito Afterbay south to the Sutter Bypass. Measures are being evaluated to meet Federal, state, and local flood protection criteria and goals. The FRWLP is expected to:

- Increase public safety by providing 200-year flood protection from Yuba City north to the Thermalito Afterbay, and the appropriate level of flood protection south of Yuba City (in conjunction with repairs to the Sutter Bypass, which are the responsibility of the state).
- Save property owners millions of dollars annually in flood insurance costs by delaying, preventing, or cutting short FEMA floodplain mapping.
- Allow cities and counties to implement general plans, which will soon be restricted for any urban or urbanizing community without 200-year flood protection. This would not apply to areas with fewer than 10,000 residents.
- Sustain and grow the local economy by creating construction jobs, protecting property values, and allowing for responsible development.

6/22/11 12:46 PM

# Feather River West Levee Project Area

2G - FRWLP Study Area.indd 1



# Feather River West Levee Project Funding and Timeline

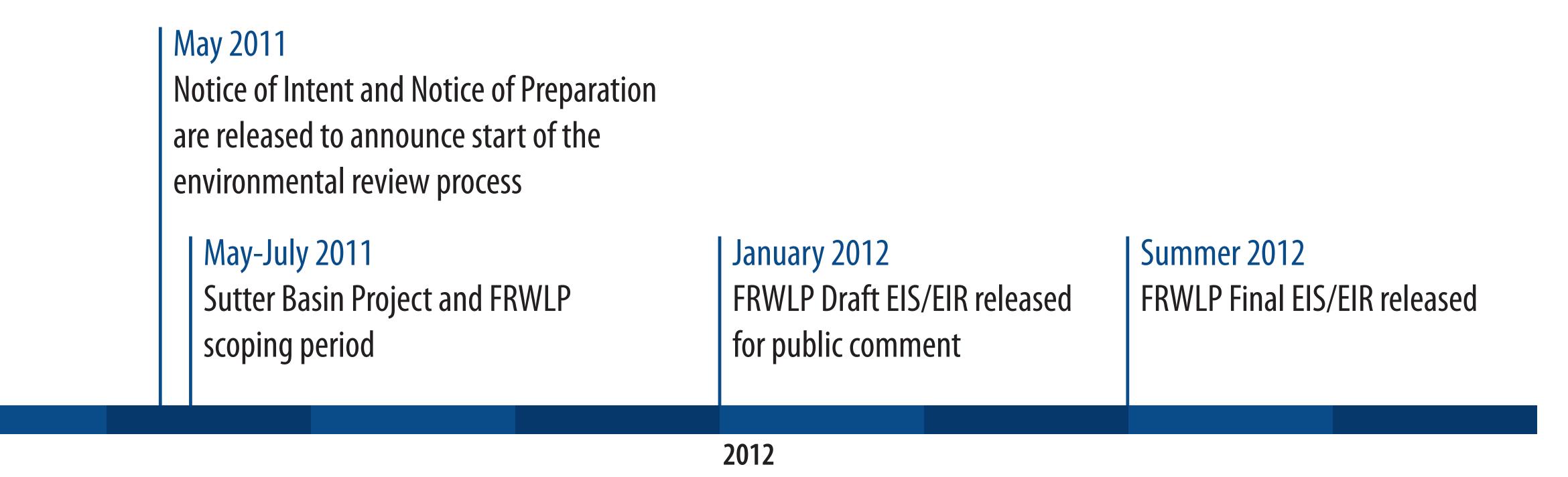
## Funding

The FRWLP is estimated at \$250 million for construction. A local assessment district enacted in 2010 will pay 29% of the project cost and the State of California is expected to pay the remaining share.

### Timeline

2011

Environmental specialists are currently analyzing the effects the FRWLP could have if implemented, to comply with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). This analysis will help engineers finalize the project design, and request Federal and state permits. The goal is to construct the FRWLP as quickly as possible in advance of and compatible with the Sutter Basin Project, potentially beginning construction in 2013.



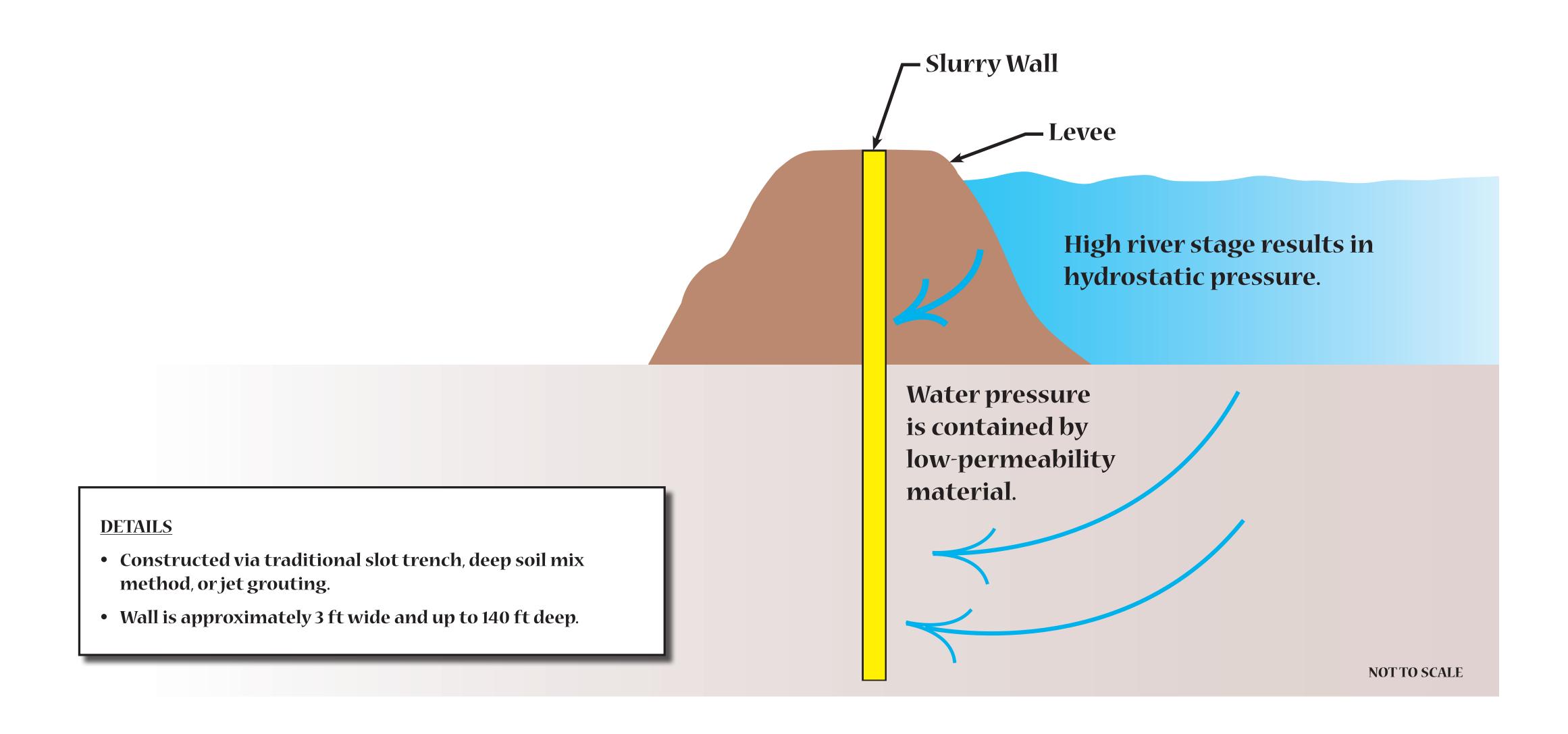
2H - Funding and Timeline.indd 1

# Potential Measures

## Slurry Cut-off Wall

#### Concept:

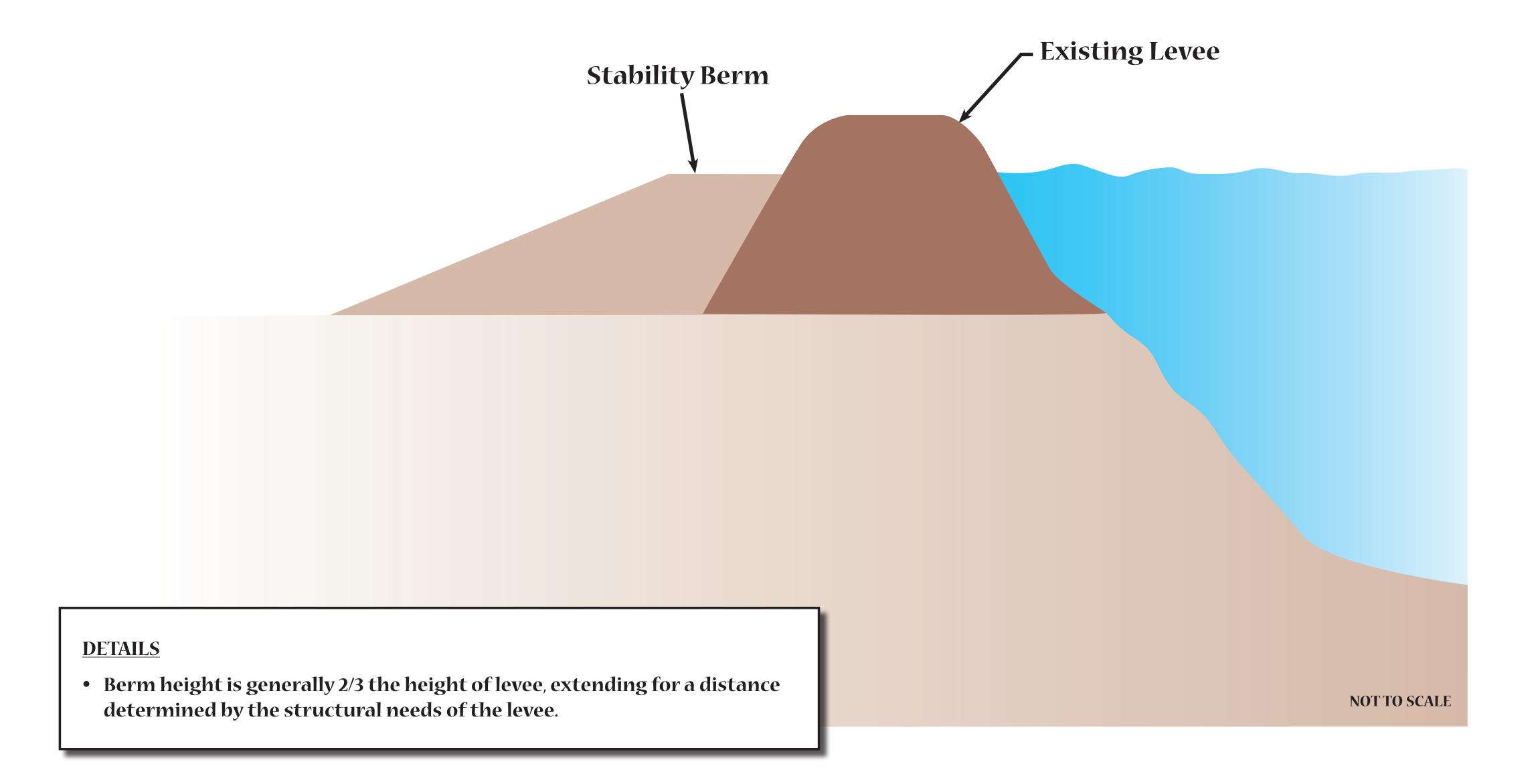
Water-seepage and through-seepage are controlled by a low-permeability wall constructed within the levee cross section.



## Stability Berm

#### Concept:

Provides additional support to levee to increase strength.

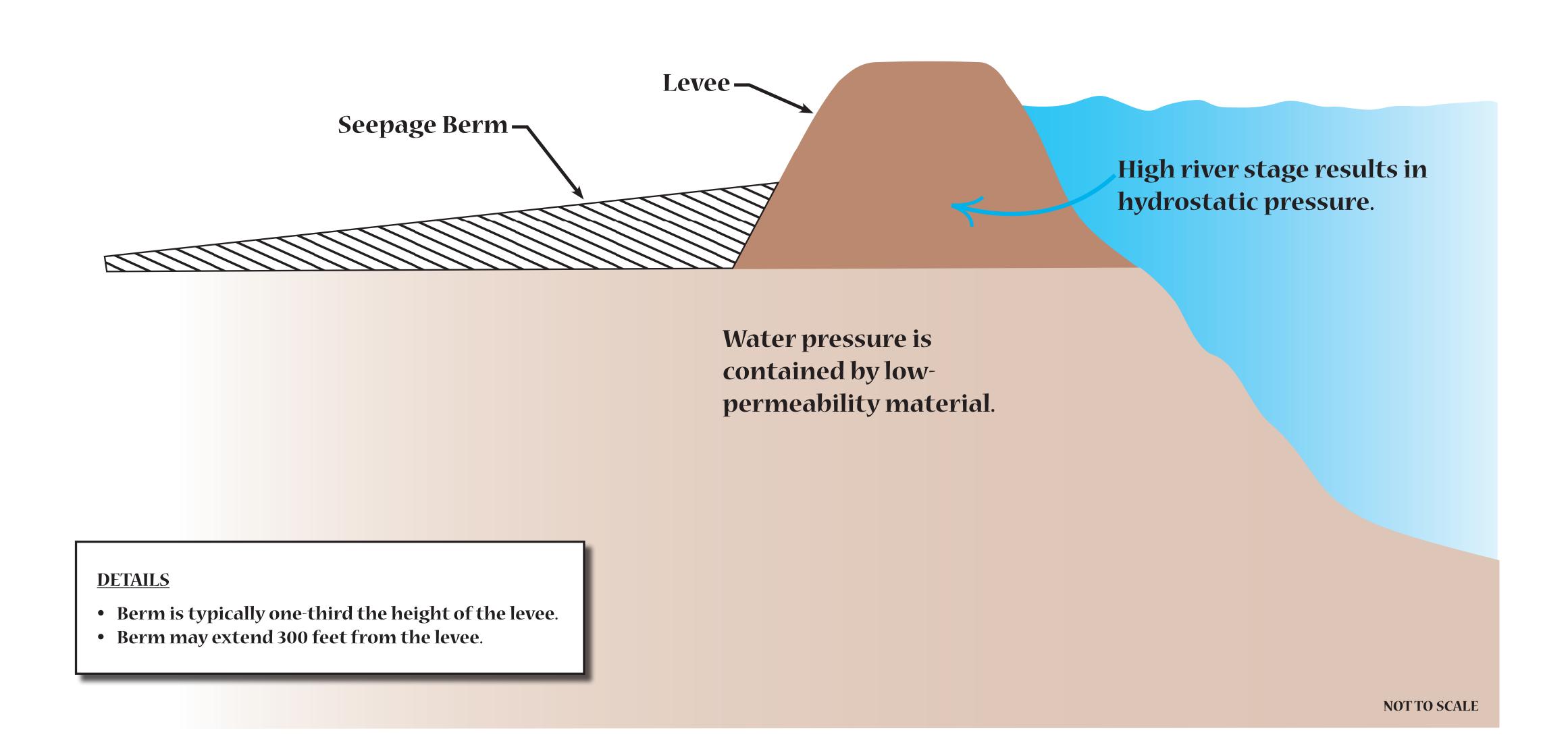


Stability Berm.indd 1

## Seepage Berm

#### Concept:

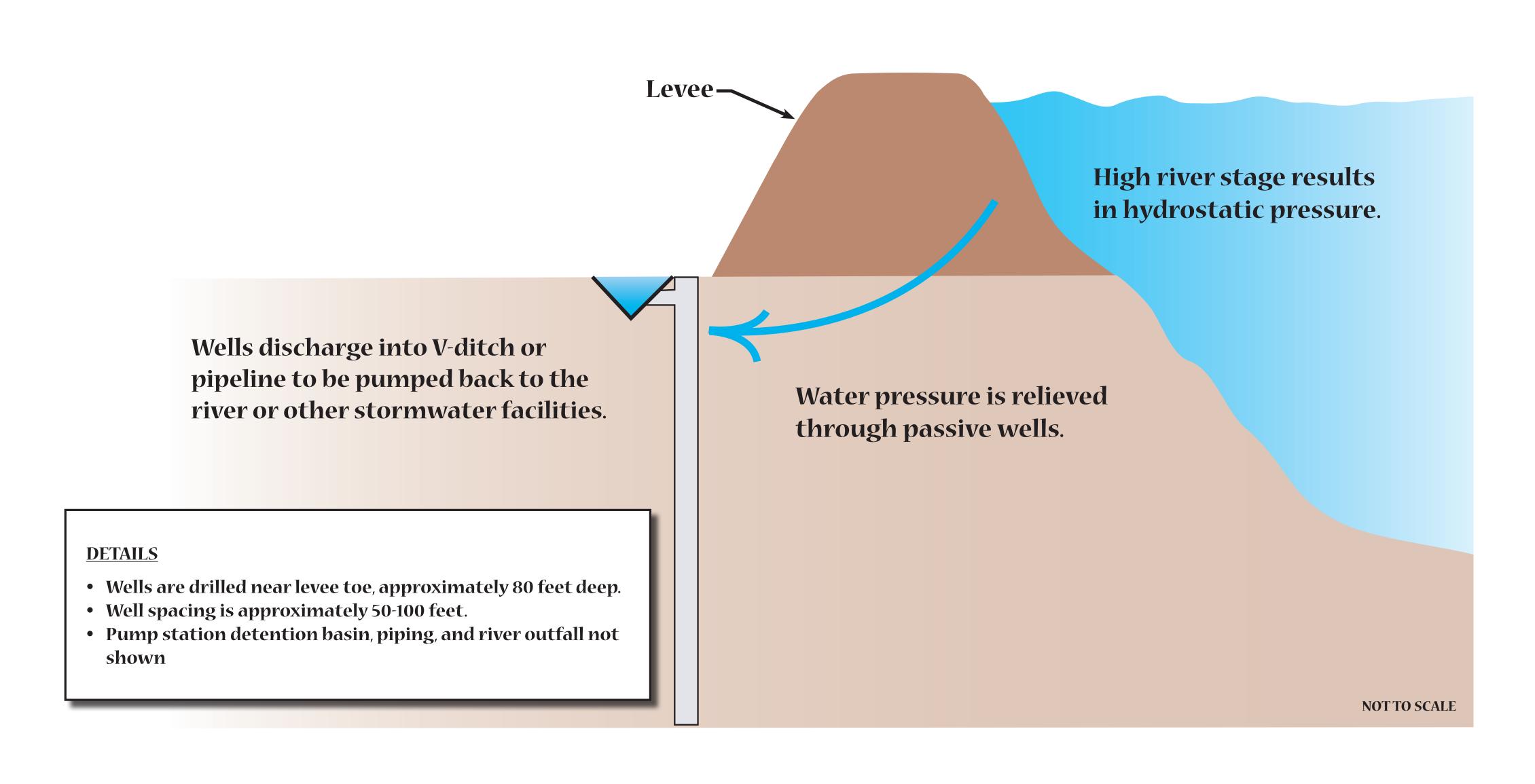
Water pressure is contained and dispersed by a thickened soil layer.



## Relief Well

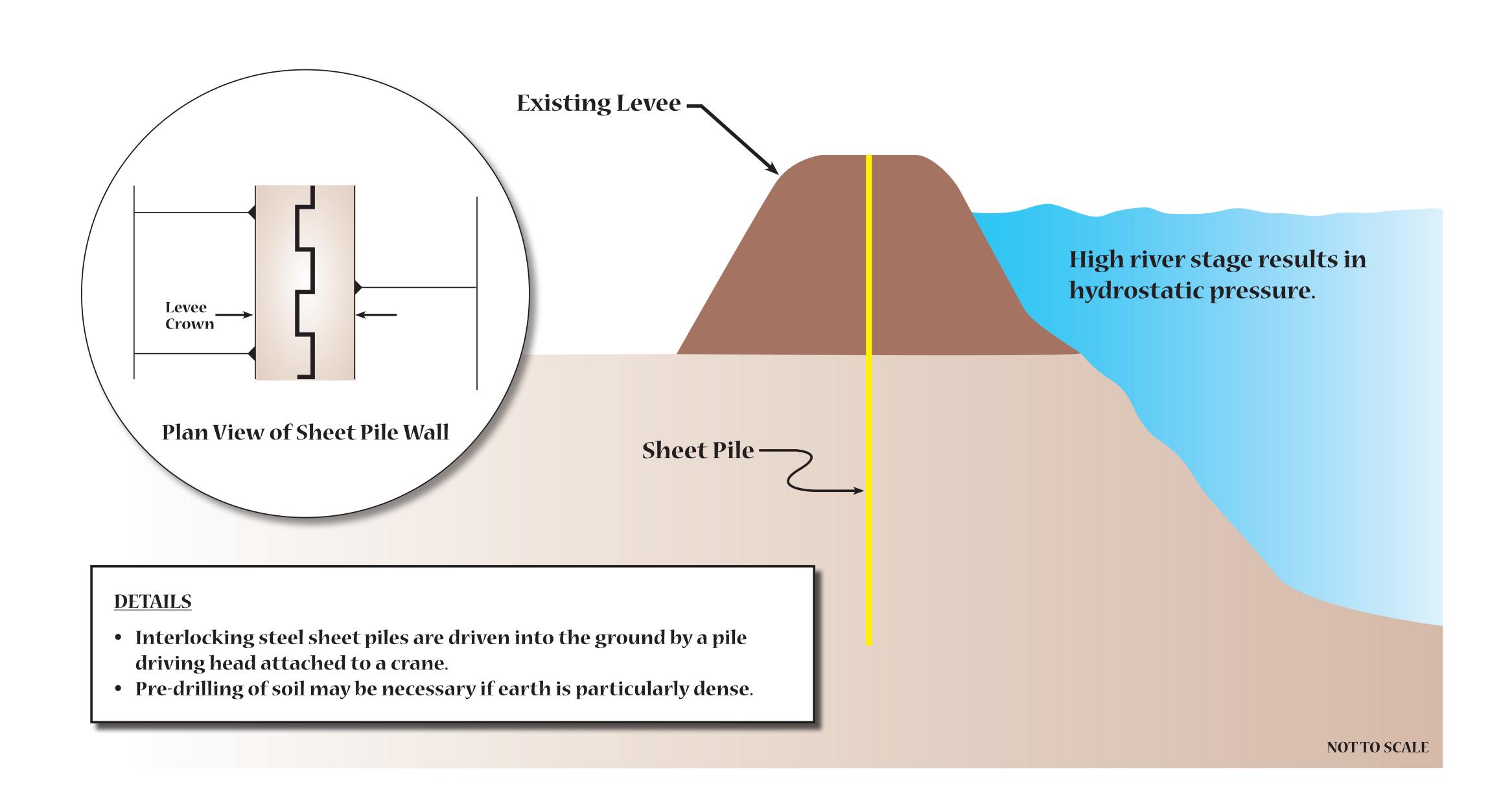
#### Concept:

Water pressure is relieved via passive wells, which direct water discharge into a collection system.



## Sheet Pile Wall

# Concept: Steel panels are driven into the levee core to provide a seepage barrier.



## Slope Flattening

#### Concept:

Flatter slopes are more stable and less susceptible to erosion.

New material placed on landside of levee to create more stable slope. Existing material removed to create more stable slope.

#### **DETAILS**

- Slopes are repaired by reforming material on the landside (and waterside if necessary) to create flatter slopes.
- New material will meet current standards.

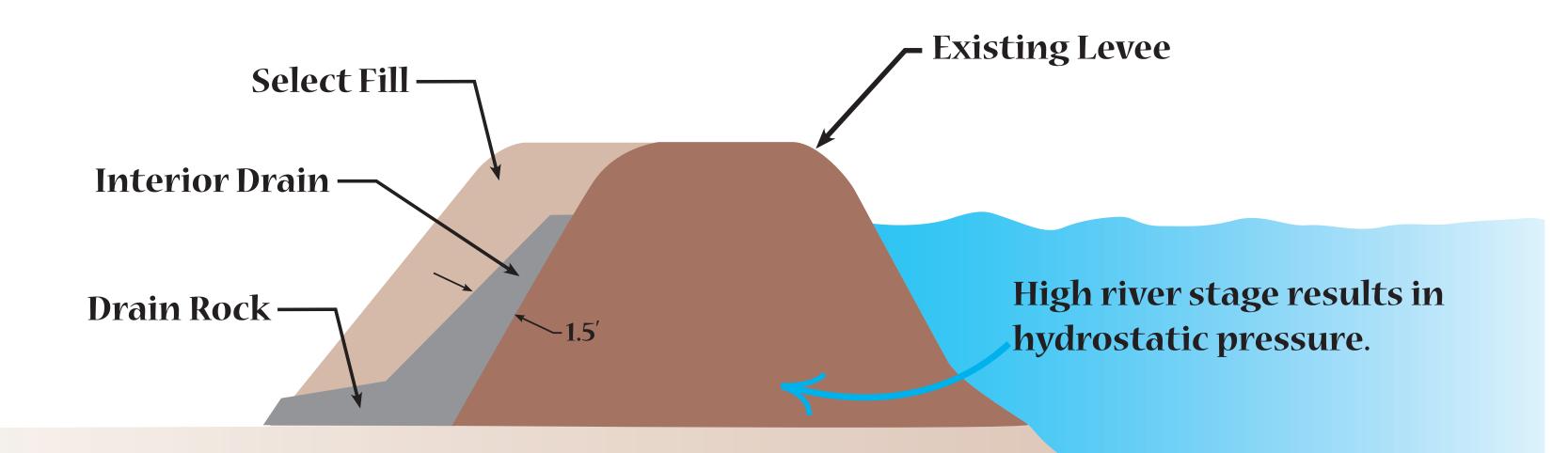
NOT TO SCALE

3F - Slope Flattening.indd 1 6/21/

## Internal Drain

#### Concept:

Capture any through-seepage and direct it away from the face of the levee.



#### **DETAILS**

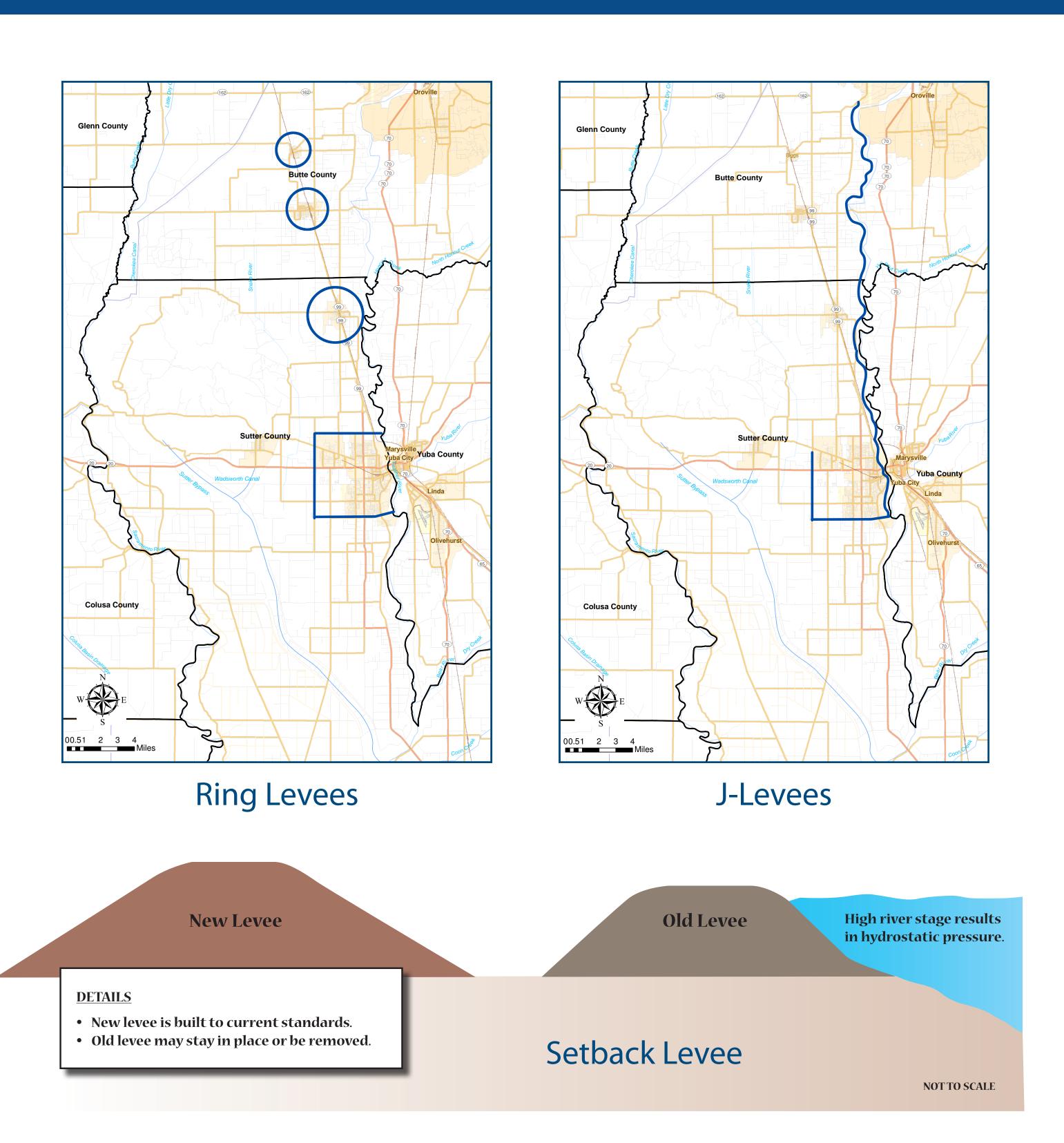
- Levee is partially excavated to install layers of drain rock encased in filter sand.
- Placed on the landside 1/3 of the levee.

NOT TO SCALE

## New Levee Location

#### Concept:

A new levee is built where the existing levee is not readily repairable or where a change in the floodplain is an option (such as setback levees, ring levees, J-levees or similar concepts).



## Reservoir Reoperation Flood Risk Management

Reduce flood risk by improving a reservoir's ability to store peak flood flows through a variety of operational or physical modifications.

## Examples:

- Reallocate storage for flood risk management purposes.
- Utilize flood forecast based operations to release storage in anticipation of a flood event.

3I - Re-operation of Reservoirs.indd 1

## Non-Structural Flood Risk Management

Non-structural measures reduce flood risk without significantly altering the nature or extent of the flooding. They do this by changing the use made of the floodplains, or by accommodating existing uses to the flood hazard.

## Examples:

- Flood proofing
- Relocation of structures
- Flood warning/preparedness systems
- Regulation of floodplain uses

## **Ecosystem Restoration**

Existing levees have isolated the floodplains from waterways, thereby eliminating significant floodplain habitats for native species, including Federally-listed species and other special-status species. There is potential to restore these areas in conjunction with flood risk management measures.

### Examples:

- Realign levees to restore floodplains and river function
- Establish riparian/wetland habitat in conjunction with detention basins and other storage facilities
- Modify water inflow to select ponds to restore fish production and riparian/wetland habitats
- Convert nonnative habitats to native riparian/wetland habitats
- Eradicate exotic invasive plant species and establish native habitat

## Recreation

An opportunity exists to create or enhance recreation features consistent with flood damage reduction and ecosystem restoration project features.

## Examples:

- Multi-purpose paved trail on levee crown with access points, highway under crossings, public safety facilities, and appropriate signage
- Provide wildlife viewing platforms
- Picnic areas with associated parking and facilities
- Provide increased river access points

6/22/11 12:09 PM

# Environmental Process

## About NEPA & CEQA

It is anticipated the Sutter Basin Project and FRWLP will result in two separate environmental impact statements/ environmental impact reports (EIS/EIR)—one for each project. Both documents will disclose an activity's potential alternatives, potential effects, and proposed mitigation measures in compliance with the National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA), respectively.

A joint EIS/EIR is prepared when there is both a Federal and state agency interest in an activity, and/or when a state agency needs permission to perform an action under Federal jurisdiction. The development of the draft joint EIS/EIR to evaluate the FRWLP is underway and scheduled for release in early 2012. The release date of USACE's draft joint EIS/EIR for the Sutter Basin Project has yet to be determined.

## Scoping and Other Public Engagement

Scoping is a process used to inform the public of a proposed activity and provide an opportunity to give comment, insight, and local information related to the range of alternatives, environmental effects, and/or issues of concern related to the proposed activity.

Because the agencies are working to create two joint, albeit separate, environmental documents for these two projects, a joint scoping period is also being held. During the scoping process public input will be solicited about the scope of the environmental documents and the agencies will communicate with the public about the two efforts.

Scoping is particularly informative in a flood risk management project because the citizens of the effected community could have insight into the performance of a levee that the agencies are unaware of (think locations of under-seepage or boils or areas of general poor levee performance).

The comments received from public scoping will be used to inform development of the alternatives; defining the environment and resources potentially affected by the alternatives; and analysis of effects resulting from the alternatives. The affected environment broadly includes physical, biological, and social topic areas. Effects are identified and analyzed both for project construction and long-term operations and maintenance.

## Potential Environmental Issues

The effect of a proposed activity on natural and built resources will be evaluated in the environmental documents for the Sutter Basin Project and the FRWLP. Resources analyzed in the EIS/ EIRs will include, but are not limited to:

- Transportation and Navigation
- Vegetation and Wetlands
- Socioeconomics and Environmental Justice
- Wildlife
- Fisheries and Aquatics
- Cultural Resources
- Air Quality, GHG and Climate Change
- Public Health and Environmental Hazards
- Land Use and Agriculture

## Other Regulatory Compliance

USACE and SBFCA will need to comply with several regulations to complete the environmental process. Those could include:

#### Section 404: Establishes regulation of discharges of pollutants

• USACE grants 404 permits. The compliance mechanism is an Individual Permit, including 404(b)(1) alternatives analysis to identify least environmentally damaging practicable alternative (LEDPA)

#### Section 401: Requires certification that the project will not adversely affect water quality

Administered by State of California through the Regional Water Quality Control Board

#### **Rivers and Harbors Act**

- Section 14 of the Rivers and Harbors Act requires permission from USACE for alterations to Federal flood control projects
  - More commonly referred to as Section 408

#### **Endangered Species Act**

- Purpose is to protect species and the ecosystems upon which they depend
- Administered by two Federal agencies: NMFS and USFWS
- Section 7 requires Federal agencies to ensure any action authorized, funded, or carried out is not likely to jeopardize the continued existence of a listed species or modify their habitat
- If a listed species may be present, the agency must conduct a biological assessment (BA)
  - Analyzes the potential effects of the project on listed species and critical habitat
- NMFS/USFWS then determines a need for a biological opinion (BO) or letter of concurrence

#### **National Historic Preservation Act**

- Section 106: Requires consideration of resources eligible or potentially eligible for the National Register of Historic Places
  - Administered by California State Historic Preservation Officer (SHPO)

#### Fish and Game Code

- Section 1600 et seq.: Work on the waterside of the levee will require Streambed Alteration Agreement
- Section 2050 et seq.: Potential effects on listed species will require demonstration that effects have been fully mitigated or incidental take permit





Thank you for your interest in these two public safety projects. Please provide us with your input on the scope of the projects and the environmental analysis here.





#### Welcome to the

## SUTTER BASIN PROJECT FEASIBILITY STUDY & FEATHER RIVER WEST LEVEE PROJECT

#### PUBLIC SCOPING MEETING

JUNE 27 & 28, 2011





#### PRESENTATION OUTLINE

- 1. Coordinated Flood Management Efforts
- 2. How Did We Get Here?
- 3. A Closer Look at Each Project
- 4. The Environmental Process





## COORDINATED FLOOD MANAGEMENT EFFORTS





## SUTTER BASIN PROJECT FEASIBILITY STUDY

- Led by U.S. Army Corps of Engineers (USACE)
- Initiated in 2001
- Purpose is to evaluate a Federal interest in flood risk management, ecosystem restoration, and recreation projects in study area
- Coordinating with Sutter Butte Flood Control Agency (SBFCA), Central Valley Flood Protection Board (CVFPB), and California Department of Water Resources (DWR)





## FEATHER RIVER WEST LEVEE PROJECT (FRWLP)

- Led by local agency SBFCA
- Initiated upon approval of annual property assessment in 2010
- Purpose is to address levee deficiencies in the Feather River's west levee from Thermalito Afterbay to Sutter Bypass
- Construction start targeted for 2013
- SBFCA is coordinating with USACE, CVFPB, and DWR





#### A JOINT APPROACH

- Studied in coordination due to similar study areas, purpose, potential improvements, effects, and parties involved
- Separate but coordinated EIS/EIRs will be developed for each project
- USACE is NEPA lead and SBFCA is CEQA lead agency for environmental process, jointly coordinating with CVFPB and DWR





#### How DID WE GET HERE?





#### A BRIEF LOCAL HISTORY

- Before 1850, the Feather and Sacramento Rivers overflowed their banks in high-water periods every few years
- Sediment from hydraulic mining in the mid-1800s caused river beds to rise
- Levees were consequently privately constructed in late 1800s and early 1900s to combat primarily overtopping
- Levees were improved and incorporated under the Sacramento River Flood Control Project by USACE in early 1900s

#### A BRIEF LOCAL HISTORY (CONT.)

- Oroville Dam and Reservoir were completed in 1967, adding substantial flood storage
- New Bullards Bar Dam and Reservoir completed in 1970, adding substantial flood storage
- Flood risk is still present, with major events
- In 1955, breach on Feather River near Shanghai Bend (38 people killed)
- In 1986, break on Yuba River and slump on Sutter Bypass
- In 1997, breaches on Feather River and Sutter Bypass

Sacramento District

#### RECENT FLOOD MANAGEMENT EFFORTS

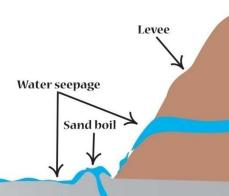
- Levee evaluation studies by USACE, DWR, and SBFCA have documented deficiencies in the system
- In 2010, property owners of Sutter and Butte Counties approved the formation of an assessment district to provide local funds for flood risk management





#### Through-seepage

High river levels lead to through-seepage in sandy soils. Through-seepage can dislocate soil material and cause sloughing and failure on the land-side of the levee slope.



Water level near flood-stage

#### **CLAY BLANKET**

#### INTERMIXED SAND AND GRAVELS

#### **Under-seepage**

High river levels lead to under-seepage through sandy and gravelly soils. An area of high water pressure beneath the clay blanket at the land-side levee toe can cause water seepage and sand boils.

#### A CLOSER LOOK AT EACH PROJECT





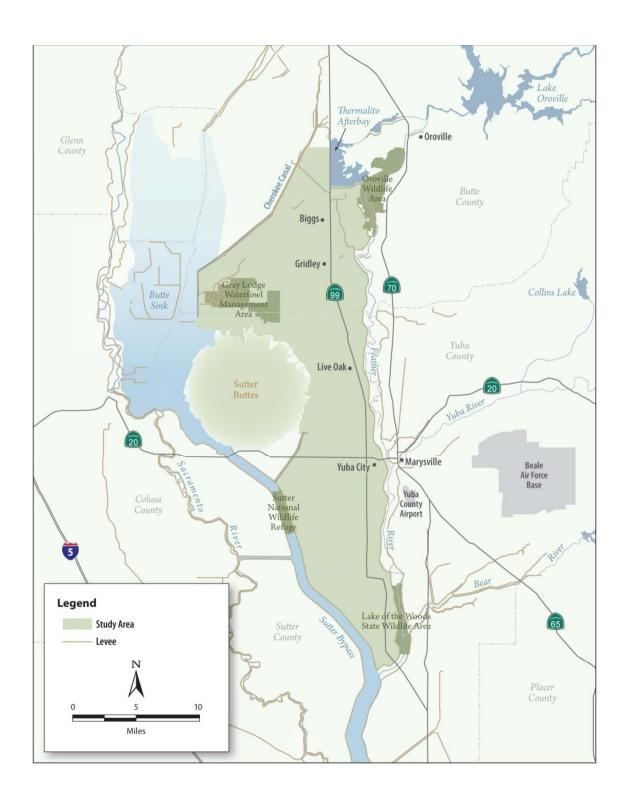
## SUTTER BASIN PROJECT FEASIBILITY STUDY: STUDY AREA

- Study area encompasses ~284 sq. miles and is nearly encircled by Federal Project levees
- Includes portions of Sutter and Butte Counties
- About 44 miles long and 9 miles wide
- Feather River to the east and the Cherokee Canal, Wadsworth Canal, Sutter Buttes, and Sutter Bypass to the west





# SUTTER BASIN PROJECT STUDY AREA



## SUTTER BASIN PROJECT FEASIBILITY STUDY: PROBLEMS AND POTENTIAL MEASURES

- Levees are at risk due to under- and through-seepage and overtopping
- Study will evaluate measures including: re-operation of reservoirs, improvements to existing levees, building new levees, and other storage & conveyance options

Sacramento District

 Ecosystem restoration would include restoration of floodplain function and habitat

## SUTTER BASIN PROJECT FEASIBILITY STUDY: POTENTIAL ALTERNATIVES & FUNDING

- Potential alternatives include those that comprise flood risk management, ecosystem restoration, and recreation measures
- Funding for the feasibility study phase only is cost-shared, 50% Federal (USACE) and 50% non-Federal (SBFCA and CVFPB)



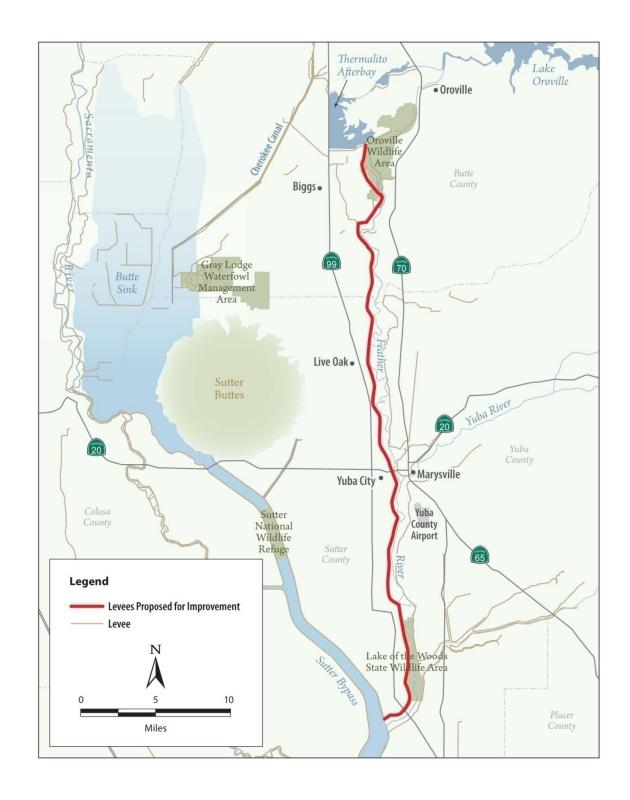


# FEATHER RIVER WEST LEVEE PROJECT: STUDY AREA

- Will improve 44-miles of levees from the Thermalito Afterbay to the Sutter Bypass
- Provides flood risk management benefits to Live Oak, Biggs, Gridley, and Yuba City and unincorporated areas



# FEATHER RIVER WEST LEVEE PROJECT STUDY AREA



# FEATHER RIVER WEST LEVEE PROJECT: PROBLEMS AND POTENTIAL MEASURES

- Primary deficiencies include throughseepage and under-seepage
- Measures may include slurry walls, seepage berms, stability berms, internal drains, relief wells, sheet-pile walls, slope flattening, and new levee alignments





# FEATHER RIVER WEST LEVEE PROJECT: FUNDING

- The project cost is estimated at \$300 million
- The state is expected to pay as much as 76% of project costs
- Locals (within assessment district) will pay the remaining share through annual assessment (anticipated to be in effect for 33 years)





## THE ENVIRONMENTAL PROCESS





## NEPA & CEQA

- NEPA (Federal) and CEQA (state) are both processes that require:
  - Analysis and disclosure of an activity's potential effect on the natural and built environments
  - Identification of alternatives and mitigation measures to reduce effects
- Processes may necessitate an EIS and EIR depending on potential effects (type and degree)

Sacramento District

## JOINT EIS/EIR

- Prepared when there is both a Federal and state agency interest in an activity, and/or
- When a state lead agency needs permission to perform an action under Federal jurisdiction (Section 408 permission & Section 404 permit)
- Agencies partner to analyze effects in a joint EIS/EIR and disclose an activity's potential effects





## WHAT IS **SCOPING**?

 Scoping is a process used to inform the public of the proposed activity and provide an opportunity to give input on the range of alternatives, potential environmental effects, and any issues of concern related to the proposed activity





## SCOPING PERIOD

- May 20, 2011 to July 8, 2011
- Comments will be accepted via e-mail, fax, and USPS
- Comments must be postmarked, faxed, or time-stamped (email) before or on July 8, 2011





## WAYS TO COMMENT

- Via E-mail
- Facsimile
- Via U.S. Postal Service
- Today via written comment (see comment cards)
- Provide oral comments to court reporter





## **CONTACT INFORMATION**

### Mail or E-mail comments to:

Matt Davis U.S Army Corps of Engineers 1325 J Street Sacramento, CA 95814 Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

*Phone:* 916–557–6708 *Fax:* 916–557–7856

*Phone:* 916–737–3000 *Fax:* 916–737–3030

Matthew.G.Davis@usace. army.mil

inorgaard@icfi.com





## THANK YOU FOR ATTENDING







#### **Coordinated Environmental Analysis**

It is anticipated the Sutter Basin Project and FRWLP will result in two separate environmental impact statements/ environmental impact reports (EIS/EIR)—one for each project. Both documents will disclose alternatives, potential effects, and proposed mitigation measures in compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), respectively. A joint EIS/EIR is prepared when there is both a Federal and state agency interest in an activity, and/or when a state agency needs permission to perform an action under Federal jurisdiction.

Development of the draft EIS/EIR to evaluate the FRWLP is underway and scheduled for public release in early 2012. A public release date for the Sutter Basin Project draft EIS/EIR has yet to be determined.

#### **The Scoping Process**

USACE and SBFCA are working together to combine and coordinate this public scoping process for their two separate environmental documents.

Scoping is a process in which agencies inform the public of a proposed activity and provide an opportunity for public input on the range of alternatives, environmental effects, and issues of concern related to the proposed activity. It also allows agencies to gather insights and local information from the public related to the activity.

Comments received from this public scoping period will be used to inform development of the alternatives; define the environment and resources potentially affected by the alternatives; and analyze effects resulting from the alternatives. The affected environment broadly includes physical, biological, and social topic areas. Effects will be identified and analyzed both for project construction and long-term operations and maintenance. The scoping period is from May 20, 2011 to July 8, 2011.

For more information on these efforts, visit www.spk.usace.army.mil or www.sutterbutteflood.org.

## Sutter Basin Project and Feather River West Levee Project



The U.S. Army Corps of Engineers (USACE) and the Sutter Butte Flood Control Agency (SBFCA), in coordination with the California Department of Water Resources (DWR) and the California Central Valley Flood Protection Board (CVFPB), are undertaking two related efforts to study flood risk management measures in Sutter and Butte Counties. USACE is leading a feasibility study for the Sutter Basin Project to determine Federal interest in flood risk management in conjunction with other related purposes in the Sutter Basin study area, while SBFCA is leading the Feather River West Levee Project (FRWLP) to address deficiencies in 44 miles along the west levee of the Feather River.

USACE and SBFCA are studying these two projects in close coordination because they are related in their study areas, purpose, potential measures, and potential effects.







### A Closer Look at the Two Projects

#### The Sutter Basin Project Feasibility Study

In 2000, the State of California and USACE entered into a cost-sharing agreement to initiate a feasibility study within the Sutter Basin. An amendment of the cost-sharing agreement was signed in July 2010 to include SBFCA as a non-Federal sponsor. The purpose of the feasibility study is to address flood risk management, ecosystem restoration, and recreation issues in the study area.

The Sutter Basin Project feasibility study evaluates approximately 285 square miles that are roughly bounded by the Feather River, Sutter Bypass, Wadsworth Canal, Sutter Buttes, and Cherokee Canal. The study area is essentially encircled by project levees and the high ground of the Sutter Buttes. Past flood events and geotechnical analysis show these levees have a higher probability of failure related to through-and under-seepage than levees designed to meet current standards. Additionally, the levees are at risk of overtopping from floods greater than they are designed to withstand.

As part of the Sutter Basin Project feasibility study, USACE is evaluating a variety of flood risk management measures that could include re-operation of reservoirs; improvements to existing levees; construction of new levees; other storage, conveyance, and non-structural options; and measures that could potentially restore the



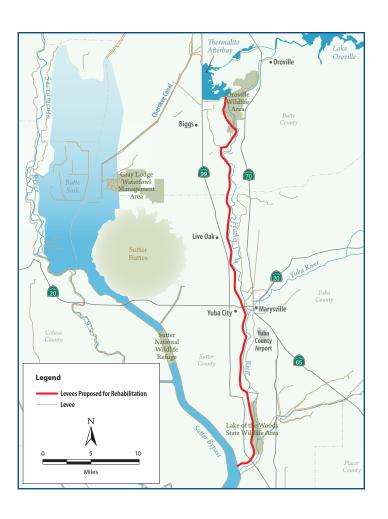
ecosystem within the study area and develop or expand recreation facilities. This study will be the basis for a recommendation to Congress to address water resources and related issues within the study area. The feasibility study phase of this project is cost-shared: USACE will fund 50%, and SBFCA and the State of California will fund the remaining 50%.

#### deficiencies found along 44 miles of the Feather west levee from the Thermalito Afterbay south t

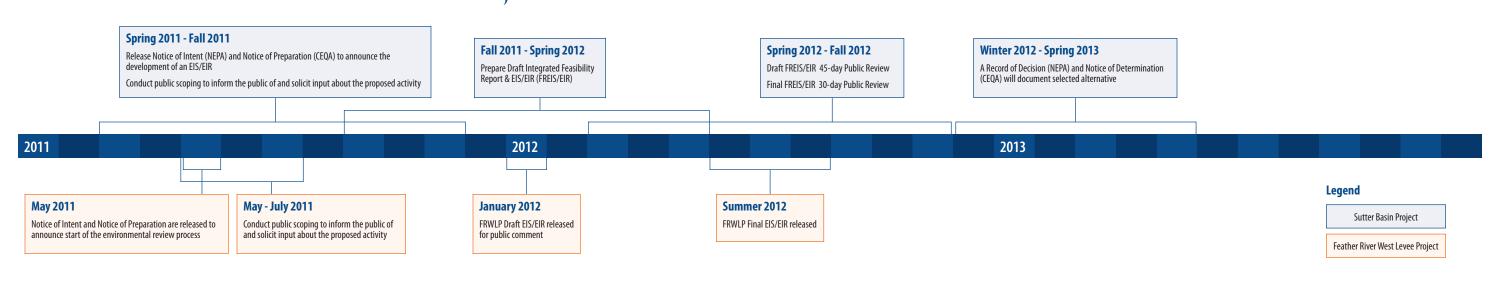
SBFCA is planning the FRWLP to address levee deficiencies found along 44 miles of the Feather River's west levee from the Thermalito Afterbay south to the Sutter Bypass. The west levee provides flood risk management benefits to the cities of Yuba City, Gridley, Live Oak, and Biggs, and portions of Butte and Sutter Counties. Measures are being evaluated to meet Federal, state, and local flood protection criteria and goals.

The Feather River West Levee Project

The west levee is at risk of failure from through- and under-seepage and from overtopping caused by floods greater than the levee is designed to withstand. Alternatives to repair these deficiencies could include slurry walls, seepage berms, stability berms, internal drains, relief wells, sheet-pile walls, slope flattening, and new levee alignments. The goal is to construct the FRWLP as quickly as possible, in advance of and compatible with the Sutter Basin Project, potentially in 2013.



#### Environmental Review Process Timeline for the Sutter Basin Project and FRWLP



## Sutter Basin Project & Feather River West Levee Project



## June 27, 2011 Scoping Meeting Comment Card

			Date	2:
Name:		Title:_		
Phone:	Fax:	Affi	liation:	
Email:	Street	Address		
City:		State:	Zip:	
Please add me to the m	ailing list to receive future up	odates.		
provide your input in the spreport (EIS/EIR) for the Sutte	e Sutter Basin Project and Fea pace below about the content er Basin Project and/or for the card in one of the designated	t of the environme EIS/EIR for the FR'	ental impact statement/e WLP. After you've writte	nvironmental impac n your comments in

## Sutter Basin Project & Feather River West Levee Project



## June 28, 2011 Scoping Meeting Comment Card

			С	Oate:
Name:		Titl	e:	
Phone:	Fax:		Affiliation:	
Email:	Stre	et Address		
City:		State:	Zip:	
Please add me to the mai	ling list to receive future ι	ıpdates.		
Thank you for attending the Space provide your input in the space report (EIS/EIR) for the Sutter the space below, place this caplease write legibly.	ce below about the conte Basin Project and/or for th	nt of the environr ne EIS/EIR for the I	nental impact statemen FRWLP. After you've wri	t/environmental impac tten your comments in

## **Attachment C**

- Comments received from all interested parties (including those transcribed by court reporter)
- Attendee sign-in sheet templates

## Sutter Basin Project & Feather River West Levee Project



## June 27, 2011 Scoping Meeting Comment Card

		¥			Date: () (7
Name:	Douglas	Gault		Title: Dinecto	- of public Wo
Phone:		Fax:		Affiliation:	Statter County
Email:_		Street	Address		
City:			State:	Zip:	
☐ Ple	ase add me to the ma	ailing list to receive future up	dates.		
provide report ( the spa Please)	e your input in the spa (EIS/EIR) for the Sutte ce below, place this c write legibly.	ace below about the content or Basin Project and/or for the eard in one of the designated	t of the enviro EIS/EIR for th I baskets arou	onmental impact stat ne FRWLP. After you'd and the room or hand	VLP) scoping meeting. Please tement/environmental impact we written your comments in dit to a project team member.
	Ime	Feasibility Fication must to allow funding for	Sta	HE TO VE	<u>lear</u>
	Keep on s	the proces	es for	- fearlo	ility study

## **ORIGINAL**

SUTTER BASIN PROJECT FEASIBILITY STUDY & FEATHER RIVER WEST LEVEE PROJECT PUBLIC SCOPING MEETING û YUBA CITY, CA

DATE:

June 27, 2011

TIME:

3:30 p.m. and 6:30 p.m.

REPORTED BY:

Jillian Bassett

Certified Shorthand Reporter No. 13619



## Northern California Court Reporters

Certified Shorthand Reporters & Legal Photocopy (916) 485-4949 ■ Fax (916) 485-1323 ■ (888) 600-NCCR 1325 Howe Avenue, Suite 105 ■ Sacramento, CA 95825 nccr@norcalreporters.com ■ www.norcalreporters.com

#### 6/27/2011 ICF Inertrational

STAN CLEVELAND, COUNTY SUPERVISOR:

I was told to repeat the comment I made regarding including the DWR Corridor Management Project, which is called The Lower Feather River Corridor Management Project. And there's a management group, and then there's -- I forgot what the other one is; there's two groups. And Aecom, they're the project, I guess, engineer group for that. And making sure that that is coordinated with this here. Because in that corridor of the Feather River, they're doing a lot of environmental planning and setting a foundation, or a level base, to where everybody won't have to come back and start from scratch on any of their studies -- environmental studies.

1.9

Northern California Court Reporters (916) 485-4949 \* Toll Free (888) 600-6227

Certificate of Certified Shorthand Reporter The undersigned certified shorthand reporter of the state of California does hereby certify: That the foregoing deposition was taken before me at the time and place therein set forth, at which time the witness was duly sworn by me; That the testimony of the witness and all objections made at the time of the examination were recorded stenographically by me and thereafter transcribed, said transcript being a true copy of my shorthand notes thereof. In witness whereof, I have subscribed my name this Certificate number 

## ORIGINAL

SUTTER BASIN PROJECT FEASIBILITY STUDY & FEATHER RIVER
WEST LEVEE PROJECT PUBLIC SCOPING MEETING û GRIDLEY, CA

DATE:

June 28, 2011

TIME:

3:30 p.m. and 6:30 p.m.

REPORTED BY:

Jillian Bassett

Certified Shorthand Reporter No. 13619



## Northern California Court Reporters

Certified Shorthand Reporters & Legal Photocopy (916) 485-4949 ■ Fax (916) 485-1323 ■ (888) 600-NCCR 1325 Howe Avenue, Suite 105 ■ Sacramento, CA 95825 nccr@norcalreporters.com ■ www.norcalreporters.com DAVID NEUBERT:

I live in Sutter County. I was speaking with your colleagues, and they mentioned one of the options they're looking at is a levee setback in the area of Nelson slough along Sacramento Avenue in Sutter County. And this would be the area between the Sacramento bypass and the Feather River, right where the Feather River enters the bypass. There's, I don't know, maybe 900,000 acres there that they could sort of cut the corner on the levee the way it exists now, and pick up 1,000 acres of floodplain.

And I'm just -- I think that's a great idea.

There's -- I think there might be one house, and it's probably just a rental in that area. So you probably wouldn't have a lot of homeowners that would be hopping mad. And you'd probably pick up 10 or 15,000 acre-feet of flood storage. So it would be something, I think, that would -- engineering-wise, it would be an interesting levee setback to look at.

So the other thing that I think that as a resident of Sutter County, and I live in the LD-1 area -- I'm not sure if LD-1 has the capacity -- management capacity to pull something like that off. You know, maybe setting up something like

#### 6/28/2011 ICF International

1	trilla (phonetic) like they did in Yuba County. Or maybe
2	this super agency, the Sutter Butte Agency, could do it.
3	But I just I just don't think management
4	capacity, or I should say the planning capacity of the
5	board level I think the management, the managers of
6	LD-1 are fine. But the board, I don't think, has vision
7	for projects like this. So hopefully they do.
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

RICHARD KUCEK:

I guess it goes back to the building of the levee was our first project for the taxpayers to protect everybody from flooding. Okay. They knew after '55 when they finished the levee and had to break in Yuba City, that that wouldn't solve the problem. So they took -- and I wouldn't say they use -- it had scare tactic. But they got the taxpayers to fund another project which was get the dam at Lake Oroville. And the state of California, at that time, from what I understand, did not have enough money to build it. But the taxpayers voted it in, so it went on their tax board. But Southern California funded most of the money for building that in return for surplus water out at the lake.

And somewhere down the line it got turned around that I guess the water's worth more than the people in the houses. So they keep the lake elevation too high. But if they would keep it down, we would never need these projects that they're proposing today, which would be the third ones the taxpayers are going to pay for just for protection.

And like, the slurry would be the right way to fix this right now. If they went with the berm, that would cause a lot of problems, because there would be

#### 6/28/2011 ICF International

maintenance, and they can't maintain the levees that there are right now. You can go out there and look at it; kids drive up and down on it, there's gophers and squirrels on it and everything else. And they don't spray it. They don't kill the weeds. They don't do nothing. So if they do, I guess that setback levee, that wouldn't cause a lot more problems on the east side of it, and then what do you do with that? Because you got to be in the floodplain. But the berm, to me, would be too expensive to keep in 33 years.

So I don't know how they got as far as they did with this project. But it should never happen because the taxpayers shouldn't have to pay three times for flood protection.

So I don't know. I guess we'll just go to the meetings and see how it comes out and, you know, if they're going to do all this, and Southern California has the right to all that water, why don't they pay the bills? I mean, why should we have to pay it? If they want to keep that lake full enough so it enables us from flooding, they should have to pay the bill if it does flood. Not raise our taxes and everything else, and our flood insurance, and they get all the water, and we got the bill.

#### 6/28/2011 ICF International

BOB BARKHOUSE:

Two concerns I have is the east levee of the Sutter bypass, because, in my lifetime, on the west side -- I've had to live through two floods -- farmland on the other side -- major floods. Those levees on the west side -- east side are no better than west side, yet we're trying to contain the overflow from the Sacramento River between bypass. And we certainly are subject to flooding if the right condition --

And then my second concern was the maps continuously show a perimeter levee around Yuba City, or a J levee on the south and west side. And I'm concerned about building a levee around Yuba City and putting the city of Yuba City in the same parallel as the city of Marysville. Although Marysville has never flooded, but it's always -- the bowl is likely to fill up someday, and it would be a catastrophe.

But I am concerned about that part. They have a strong levee on the Feather River, and let that take care of itself. So that was my two concerns.

-	Certificate
2	of
3	Certified Shorthand Reporter
4	The undersigned certified shorthand reporter of the
5	state of California does hereby certify:
6	That the foregoing deposition was taken before me at
7	the time and place therein set forth, at which time the
8	witness was duly sworn by me;
9	That the testimony of the witness and all objections
10	made at the time of the examination were recorded
11	stenographically by me and thereafter transcribed, said
12	transcript being a true copy of my shorthand notes thereof.
13	In witness whereof, I have subscribed my name this
14	date July 25 acil.
15	
16	
17	- JUL BUSIA
18	Certificate number 13019
19	
20	
21	
22	
23	
24	
25	

## **Sutter Basin Project & Feather River West Levee Project**

## June 27, 2011 Scoping Meeting Sign-in Sheet



Name	Title	Affiliation	Street Address	City	Zip Code	How did you hear about the meeting?

## **Sutter Basin Project & Feather River West Levee Project**

## June 28, 2011 Scoping Meeting Sign-in Sheet



Name	Title	Affiliation	Street Address	City	Zip Code	How did you hear about the meeting?

#### **Comments Received During the Scoping Period**

[Excluding comments received at the scoping meetings. See Appendix D for those comments.]

#### E.1 Public Feedback

Seventeen comments were received apart from feedback received (comments and transcripts from oral comments) at the two scoping meetings. See Appendix D to view comments received at the scoping meetings.

Below is a list summarizing comments received.

- 1. Project lead agencies must obtain appropriate water quality/discharge permits including those related to dewatering, discharge, sewer, and construction and land disturbance.
- 2. The area being studied is located in the planning area of the Yuba/Sutter Habitat Conservation Plan/Natural Community Conservation Plan (HCP/HCCP); therefore please provide the Sutter County Community Services Director's office with all future notices regarding this project.
  - a. The applicants currently are the Counties of Yuba and Sutter, the City of Wheatland, the City of Live Oak, and Yuba City. These agencies are available to provide additional information upon request.
- 3. Project teams need to review the current effective Flood Insurance Rate Maps for all counties and cities in the study area. Please note that these cities and counties are participants in the National Flood Insurance Program (NFIP) and the minimum, basic NFIP floodplain management building requirements are described in 44 Code of Federal Regulations (CFR) §§59–65.
- 4. General requests for more detailed information about the boundaries of each project and the relationship between the two projects.
- 5. A request to memorialize, in some way, the unreported deaths in 1955 caused by a levee break at Shanghai Bend.
- 6. The California State Lands Commission (CSLC) requests that as the Project proceeds, the Sutter Butte Flood Control Agency (SBFCA) submits additional information (e.g., detailed maps) to enable CSLC staff to determine if any components of the Project will require a lease or permit. CLSC additionally requests to be placed on any future distribution mailing list for the Project. A thorough project description should be included in the environmental impact statement/environmental impact report (EIS/EIR) in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. A thorough description will facilitate CSLC staff's determination of the extent and location of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential need for subsequent environmental analysis.
- 7. The project's EIS/EIR should carefully issues and mitigation alternatives in order to formulate a more comprehensive and sustainable approach to flood management in the Sutter/Butte region, as described below. These include:

- a. Growth Inducing Impacts—Consider whether providing 200-year flood protection would increase rather than decrease flood risk by incentivizing development in these flood prone areas.
- b. Downstream Flood Impacts—Proposed project could route more floodwater downstream to urban communities.
- c. Impacts Under Climate Change—Will levee improvements really provide 100–200 year protection?
- d. Evaluate a Broader Range of Alternatives—Levee Setbacks, Ring Levees and Building Modifications, Flood Bypass, Oroville Reservoir, Oroville Wildlife Area Levee Modification.
- 8. From the Feather River Air Quality Management District (AQMD): Recommends regarding the air quality and climate change for both projects. The EIS/EIR should include a discussion of greenhouse gas emissions and climate change impacts. The following District Rules and Regulations May apply:
  - a. Rule 3.0 Visible Emissions.
  - b. Rule 3.16 Fugitive Dust Emissions.
  - c. Rule 4.1 Permit Requirements.
- 9. The project should submit a Fugitive Dust Control Plan to the Feather River AQMD prior to beginning work. The California Department of Fish and Game (CDFG) would like to emphasize the critical importance of coordination with CDFG during the California Environmental Quality Act (CEQA) and regulatory processes and asks that SBFCA and the U.S. Army Corps of Engineers (USACE) evaluate CDFG's comments closely to ensure that impacts are avoided, minimized and mitigated pursuant to the CEQA and the appropriate regulations and statutes:
  - a. CDFG Authority—Commenting as Trustee Agency, landowner and conservation easement holder within the study area for both projects.
  - b. California Endangered Species Act (CESA) Species—CDFG has identified species with potential to occur within the study area that may be affected by the projects. (See Attachment with List of Species.)
  - c. Threatened and Endangered Plants—EIS/EIRs should include a full impact assessment.
  - d. Other Species Considerations—Emphasis on describing and identifying locations of existing resources within the study area that are rare or unique.
  - e. Lake or Streambed Alteration Agreement—Backfilling of a pond could be a solution to reducing levee permeability. EIS/EIRs should identify ponds and measures required to reduce an impact to below a level of significance.
  - f. Other Habitat Considerations—Recommends the projects be designed to avoid impacts to wetlands and riparian habitat as much as possible.
  - g. CDFG Lands, Restoration Efforts and Public Use—Identify lands subject to conservation easements in the study area and ensure that the projects are implemented consistent with the conservation easement terms.
  - h. Other Considerations—Identify clear windows of construction, and other measures to minimize impact to wildlife and the recreating public. Detailed monitoring for all mitigation

measures. CEQA filing fees due at the time of the Notice of Determination (NOD) for final EIS/EIRs.

- 10. To adequately assess and mitigate project-related impacts to archaeological resources, the Native American Heritage Commission (NAHC) recommends the following actions:
  - a. Contact the appropriate regional archaeological Information Center for a record search.
  - b. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - c. Contact the NAHC for sacred lands file check and a list of contacts.
  - d. Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - e. Information presented at the scoping meetings and in the Notice of Preparation (NOP) was vague. Support for the development of a levee setback area near the confluence was voiced because this land is currently used for agriculture and USACE could minimize land acquisition costs by simply utilizing a flood easement rather than land purchase if the levee is moved north to widen the flood plan.
  - f. The sharing of hydraulic models and other findings of levee setback options and costs as they are developed.
- 11. Keep the public informed about the following topics:
  - a. The legal basis for the construction or improvement of levees, on each segment of levee, and include this in the documents.
  - b. The extent to which the levee districts are obligated to provide for cross-levee access for private owners and the public; and, the extent to which the levee districts have a right to exclude underlying owners, owners of land on the water-side of the levee, and the public, from being on or crossing the levees
  - c. Address the question of who owns the segments of land the levee sits on; what basis the levee district claims the right to maintain a levee on each segment; what extent the levee district may have the right to exclude land-owners and members of the public; and what extent is the burden of the levee district to build and maintain ramps to allow private owners or the public to cross the levee.
  - d. The legal effect of the documents and general law on whether levee deeds are read as fee grants or mere easements; who is obligated to maintain ramps providing access across the levee; under what circumstances might the levee district be obligated to construct or maintain a ramp; when may the levee district exclude the underlying owner, owners inside the levee, or the public from crossing the levee.
  - e. The tops of the levees were open for use apparently as public roads. What happened to rights which might have existed by dedication, grant, or county road action?

#### **E.2** Next Steps

All comments received, both those at the scoping meetings and those received during the scoping period, will assist in determining which issues are evaluated in detail in both the Sutter Basin Project and Feather River West Levee Project (FRWLP) EIS/EIRs. Once alternatives have been developed based on the scoping process and preexisting information, they will be analyzed, and draft EIS/EIRs will be developed.

Upon the release of the draft EIS/EIR, the public will have 45 days to comment on the document. Additionally, at least one public hearing will be held so the public and agencies can learn more about both of the draft EIS/EIRs, ask questions regarding the analysis, and provide comments. At these meetings, the alternatives will be presented and explained.

Development of the draft EIS/EIR to evaluate the FRWLP is underway and scheduled for public release in 2012. A public release date for the Sutter Basin Project draft EIS/EIR has yet to be determined.



# SUTTER COUNTY COMMUNITY SERVICES DEPARTMENT

Animal Control Building Inspection Environmental Health Planning

Director – Larry Bagley Assistant Director – Randy Cagle Fire Services – Dan Yager Emergency Services – John DeBeaux

### CERTIFIED AND FIRST CLASS MAIL

June 8, 2011

Ingrid Norgaard, Project Manager Sutter Buttes Flood Control Agency 630 K Street, Suite 400 Sacramento, CA 95814

Matt Davis, Environmental Resources Branch Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, CA 95814

Re: Response to the Notice of Preparation of an EIS/EIR for the Sutter Basin Feasibility Study and Feather River West Levee Project

Dear Ms. Norgaard and Mr. Davis,

Thank you for the opportunity to comment on the Notice of Preparation for the EIS/EIR on the Sutter Basin Feasibility Study and Feather River West Levee Project. The County of Sutter, County of Yuba, City of Yuba City, City of Live Oak, City of Wheatland, California Department of Fish and Game ("DFG") and the United States Fish and Wildlife Service ("USFWS") are in the process of preparing the Yuba-Sutter Natural Community Conservation Plan and Habitat Conservation Plan ("Yuba-Sutter NCCP/HCP"). The area you are studying is located in the planning area of the Yuba/Sutter NCCP/HCP; therefore please provide our office with all future notices regarding this project.

Sincerely,

LARRY BAGLEY

COMMUNITY SERVICES DIRECTOR

LB:tsg

cc: Yuba-Sutter NCCP/HCP Working Group Members

H:\My Doc, ..\2011 Corr...\NCCP\_SBFCA NOP response\_6-8-11

U.S. Department of Homeland Security FEMA Region IX 1111 Broadway, Suite 1200 Oakland, CA. 94607-4052



June 9, 2011

Ingrid Norgaard, Project Manager Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, California 95814

Dear Ms. Norgaard:

This is in response to your request for comments on the Notice of Preparation of Draft Environmental Impact Statements/Environmental Impact Reports for the Sutter Basin Feasibility Study and Feather River West Levee Project.

Please review the current effective Flood Insurance Rate Maps (FIRMs) for the Counties of Butte (Community Number 060017) and Sutter (Community Number 060394), and Cities of Biggs (Community Number 060437), Gridley (Community Number 060019), Yuba City (Community Number 060396), and Live Oak (Community Number 060395). Please note that the above referenced Cities and Counties are participants in the National Flood Insurance Program (NFIP). The minimum, basic NFIP floodplain management building requirements are described in Vol. 44 Code of Federal Regulations (44 CFR), Sections 59 through 65.

A summary of these NFIP floodplain management building requirements are as follows:

- All buildings constructed within a riverine floodplain, (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM), must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective Flood Insurance Rate Map.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any development must not increase base flood elevation levels. The term development means any man-made change to improved or unimproved real estate, including but not limited to buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials. A hydrologic and hydraulic analysis must be performed prior to the start of development, and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.

Ingrid Norgaard, Project Manager Page 2 June 9, 2011

Upon completion of any development that changes existing Special Flood Hazard Areas, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision. In accordance with 44 CFR, Section 65.3, as soon as practicable, but not later than six months after such data becomes available, a community shall notify FEMA of the changes by submitting technical data for a flood map revision. To obtain copies of FEMA's Flood Map Revision Application Packages, please refer to the FEMA website at <a href="http://www.fema.gov/business/nfip/forms.shtm">http://www.fema.gov/business/nfip/forms.shtm</a>.

### **Please Note:**

Many NFIP participating communities have adopted floodplain management building requirements which are more restrictive than the minimum federal standards described in 44 CFR. Please contact the local community's floodplain manager for more information on local floodplain management building requirements. The City of Gridley floodplain manager can be reached by calling Jerry Ann Fichter, Mayor, at (). The City of Biggs floodplain manager can be reached by calling Paul H. Pratt, Public Works Superintendent, at (530) 868-1396. The Sutter County floodplain manager can be reached by calling Douglas R. Gault, Director, Department of Public Works, at (530) 822-7450. The Yuba City floodplain manager can be reached by calling George Musallam, Director, Department of Public Works, at (530) 822-3288. The City of Live Oak floodplain manager can be reached by calling Bruce Nash, City Engineer, at (530) 895-1442. The Butte County floodplain manager can be reached by calling Mike Crump, Director, Department of Public Works, at (530) 538-7681.

If you have any questions or concerns, please do not hesitate to call Cynthia McKenzie (510) 627-7190 and/or Frank Mansell (510) 627-7191 of the Mitigation staff.

Sincerely,

Gregor Blackburn, CFM, Branch Chief Floodplain Management and Insurance Branch Ingrid Norgaard, Project Manager Page 3 June 9, 2011

#### cc:

Jerry Ann Fichter, Mayor, City of Gridley
Paul H. Pratt, Public Works Superintendent, City of Biggs
Douglas R. Gault, Director, Department of Public Works, Sutter County
George Musallam, Director, Department of Public Works, Yuba City
Bruce Nash, City Engineer, City of Live Oak
Mike Crump, Director, Department of Public Works, Butte County
Raul Barba, State of California, Department of Water Resources, Northern Region Office
Ray Lee, State of California, Department of Water Resources, North Central Region Office
Cynthia McKenzie, Senior Floodplanner, CFM, DHS/FEMA Region IX
Frank Mansell, Floodplanner, DHS/FEMA Region IX
Alessandro Amaglio, Environmental Officer, DHS/FEMA Region IX



July 5, 2011

Ingrid Norgaard, Project Manager Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

Dear Ms. Norgaard,

American Rivers, in its commitment to river conservation, public safety, and sustainable flood management, would like to offer comments with respect to the proposed Feather River West Levee Project (FRWLP). It is American Rivers' concern that the project, as currently proposed, fails to incorporate long-term, sustainable flood management strategies, and places both human and natural communities at increased risk of future catastrophic flooding.

The project's EIR/EIS should examine a broad range of issues and mitigation alternatives in order to formulate a more comprehensive and sustainable approach to flood management in the Sutter/Butte region, as described below.

### **Growth Inducing Impacts**

The report should consider whether providing 200-year flood protection from Thermalito Afterbay to Yuba City north would increase, rather than decrease, flood risk by incentivizing development in these flood-prone areas. Flood risk, as defined by the state of California, equals the probability of flooding multiplied by the consequences of a flood. Although the project will reduce the *probability* of local flooding, the *consequences* of eventual flooding in a heavily developed community would be much more severe. Facilitating development efforts by cities, counties, and property owners in flood-prone regions may substantially increase flood risk over the long term.

### **Downstream Flood Impacts**

In its emphasis on structural levee improvements, the proposed project could route more floodwater downstream to urban communities. By reducing the probability of levee failure in the Yuba City area during a large flood event, the project would necessarily increase the probability that flows would be routed downstream, and this would increase the risk of catastrophic flooding in Sacramento and West Sacramento. The report should consider and select alternative improvement measures that would avoid or mitigate these impacts.

# **Impacts Under Climate Change**

The project should consider whether the proposed levee improvements will actually provide 100-year and 200-year protection under projected future flows assuming climate change.

### **Evaluate a Broader Range of Alternatives**

In order to better advance the state and federal flood management goals, the EIR/EIS must evaluate a broader range of alternatives including:

- 1. **Levee Setbacks**: Evaluate the potential benefits of levee setbacks, including reduced operations and maintenance costs, improvements to local flood protection in the face of climate change, and benefits for fisheries and wildlife habitat.
- 2. **Ring Levees and Building Modifications**: Examine the potential that ring levees offer for protecting the existing communities of Gridley, West Gridley, Biggs, and Yuba City as an alternative to the proposed project. Elevate buildings outside the ring levees to protect against flooding.
- 3. **Flood Bypass**: Evaluate the opportunity to reduce peak flows during extreme flood events by rerouting floodwaters into the Butte Basin through a new flood bypass. Such a bypass could divert water out of Thermalito Afterbay and the Feather River and into the Cherokee Canal.
- 4. **Oroville Reservoir**: Consider opportunities for reducing extreme flood events by reoperating the Oroville reservoir either to expand the flood reservation or improve real time operations during flood events.
- 5. **Oroville Wildlife Area Levee Modification**: Explore opportunities for reducing peak flood flows through planned modifications to levees adjacent to the Oroville Wildlife Area that would increase flooding of the OWA. Modifying levees along the OWA is required by Article A106 Riparian and Floodplain Improvement Program in the Settlement Agreement for the Relicensing of the Oroville Facilities, FERC Project 2100, executed by the Department of Water Resources and 52 other parties in March 2006.

The costs and benefits of all alternatives should be evaluated in light of the life cycle costs of maintaining and operating the project.

By examining the aforementioned potential project impacts and considering additional mitigation alternatives, the FRWLP can adopt a sustainable flood management vision and offer long-term public safety as well as ecological benefits to the communities of the Sutter/Butte region.

We hope that, in compiling the EIR/EIS and in moving forward with the project, the Sutter Butte Flood Control Agency and its collaborators will consider our comments and be part of the movement towards a safer, more sustainable future for California's Central Valley.

Respectfully,

John Cain.

Director of Conservation California Flood Management Megan Randall,

Meg a Randall

California Flood Management Fellow

From: Francis Coats [mailto:fecoats@msn.com]

Sent: Tuesday, June 28, 2011 12:34 PM
To: Norgaard, Ingrid; Matthew G. Davis
Subject: FW: Additional deaths in 1955 flood

Information on farmworkers who died on Shanghai Bend levee Christmas eve, 1955.

Date: Mon, 10 Jan 2011 15:44:32 -0800

From: mnewkom@yahoo.com

Subject: RE: Additional deaths in 1955 flood

To: fecoats@msn.com

Frank, I'm sure that Oji could possibily have that info in their "archives" if they still have them. I know I still have my old ranch books and employment records from 1956 on. The early stuff is gone.

### --- On Mon, 1/10/11, Francis Coats < fecoats@msn.com > wrote:

From: Francis Coats < <a href="mailto:fecoats@msn.com">fecoats@msn.com</a> Subject: RE: Additional deaths in 1955 flood

To: "Roberta Fletcher" <rlf@syix.com>, "Nelson Anthoine" <nelsonanthoine@sbcglobal.net>, "Joe and

Jackie Griffin" < <a href="mailto:leeann@syix.com">"Jeet Bajwa" < <a href="mailto:jeetbaj@hotmail.com">jeetbaj@hotmail.com</a>, "Janet Baur"

<edbaur@sbcglobal.net>, "Kurt Bonham" <bonhamcpa@citlink.net>, "Dick Boundy"

<<u>d.boundy@comcast.net</u>>, "Karna Boyer" <<u>boyerkar@syix.com</u>>, "Stan Cleveland"

<frypanman@excite.com>, "Suzanne Connelly" <misuzinca1@juno.com>, "Dan Cucchi"

<dancucchi@yahoo.com>, "Bob Harlan" <bob@kubaradio.com>, "Mike Darnell"

<mikeagle@yahoo.com>, "Narinder Dhaliwal" <ndhaliwal@sbcglobal.net>, "Angel Diaz"

<brooklyngeek@yahoo.com>, "David and Pamela Geitner" <geitner@comcast.net>, "Jack and Maxine

Elliott" < maxineelliott1695@yahoo.com >, "Diane Fales" < dfales@live.com >, "Darin Gale"

<daringale@hotmail.com>, "James Gallagher" <ingallagher21@hotmail.com>, "Barbara Gaudreau"

<<u>b.bilingual@syix.com</u>>, "Richard von Geldern" <<u>vongeldern\_ric@sbcglobal.net</u>>, "Ashley Gebb"

<agebb@appealdemocrat.com>, "Roy and Miriam Hatamiya" <<u>hatamiyas@yahoo.com</u>>, "Ray Janssen"

<rayjanssen@comcast.net>, "Don Kessel" <meccacol@comcast.net>, "Jeannie Klever"

<cinnamongirls@sbcglobal.net>, "Rob Klotz" <rob.klotz@yahoo.com>, "Robert LaHue"

<<u>rlahue@appealdemocrat.com</u>>, "Howard Yune" <<u>hyune@appealdemocrat.com</u>>, "Barbara LeVake"

<<u>blevake@syix.com</u>>, "Jack Levine" <<u>jlevine@c21selectgroup.com</u>>, "Rick and Jerrie Libby"

<rlibby@syix.com>, "Tej Maan" <tejmaan@hotmail.com>, "Bob Mackensen"

<rmackensen@sbcglobal.net>, "Russell and Mary Mayfield" <marymay2@sbcglobal.net>, "Dee and Roy

```
Meli" <<u>dmeli1@comcast.net</u>>, "Eric Meyers" <<u>ericbmeyers@cs.com</u>>, "Elaine Miles"
<elaine.miles@att.net>, "Chuck and Pat Miller" <chucknpat@comcast.net>, "Rick Nelson"
<rrnels1@aol.com>, "Martin Newkom" <mnewkom@yahoo.com>, "Horacio Paras"
<hparassr@hotmail.com>, "Kevin Perkins" <kpatcal@yahoo.com>, "Ron Reavis"
<ron859@succeed.net>, "Joan Joaquin Wood" <joanwood@earthlink.net>, "Stephanie Ruscigno"
<slruscigno@gmail.com>, "Sarvjit Sangha" <coldaqua01@yahoo.com>, "Gabrial Singh"
<usafarm@jps.net>, "Paul Singh" <butter2000p@aol.com>, "Chuck Smith"
<<u>chucksmith57@hotmail.com</u>>, "Leo and Marilyn Speth" <<u>lfspeth@sbcgloba</u>l.net>, "Robert and Pam
Stark" <stark@otnusa.com>, "Sarb Takhar" <sarb@sarb.com>, "Larry and Carla Virga" <emu@syix.com>,
"Gregor Blackburn" <gregor.blackburn@dhs.gov>, "Bill Edgar" <br/>bille@eanda.org>, "Kim Floyd"
<khoover@sutterbutteflood.org>, "Carlos Lazo" <carlos.j.lazo@usace.army.mil>, "Sean Minard"
<sminard@mhm-inc.com>, "Al Montna" <almontna@montnafarms.com>, "Duane Oliveira"
<a href="mailto:duane@theoliveiralawfirm.com">duane@theoliveiralawfirm.com</a>, "Dan Peterson" <a href="mailto:dwpeterson@co.sutter.ca.us">dwpeterson@co.sutter.ca.us</a>, "Michael Picker"
<picker@lincolncrow.com>, "Scott Rice" <srice@water.ca.gov>, "Jeff Twitchell"
<jtwitchell@geiconsultants.com>, "Steve Yuhas" <stephen.m.yuhas@usace.army.mil>, "Tyler Stalker"
<tyler.m.stalker@usace.army.mil>, "Ron Southard" <ronald_southard@sbcglobal.net>, "Sally Serger"
<sallyserger@yahoo.com>
```

Date: Monday, January 10, 2011, 3:26 PM

It seems likely that Oji Brothers might have their names, at least the ones from the Shanghai Bend crew.

Date: Fri, 7 Jan 2011 16:32:51 -0800

From: <u>rlf@syix.com</u>

To: nelsonanthoine@sbcglobal.net; leeann@syix.com; jeetbaj@hotmail.com; edbaur@sbcglobal.net; bonhamcpa@citlink.net; d.boundy@comcast.net; boyerkar@syix.com; frypanman@excite.com; fecoats@msn.com; misuzinca1@juno.com; dancucchi@yahoo.com; bob@kubaradio.com; mikeagle@yahoo.com; ndhaliwal@sbcglobal.net; brooklyngeek@yahoo.com; geitner@comcast.net; maxineelliott1695@yahoo.com; dfales@live.com; daringale@hotmail.com; imgallagher21@hotmail.com; b.bilingual@syix.com; vongeldern ric@sbcglobal.net; agebb@appealdemocrat.com; hatamiyas@yahoo.com; rayjanssen@comcast.net; meccacol@comcast.net; cinnamongirls@sbcglobal.net; rob.klotz@yahoo.com; rlahue@appealdemocrat.com; hyune@appealdemocrat.com; blevake@syix.com; jlevine@c21selectgroup.com; rlibby@syix.com; tejmaan@hotmail.com; rmackensen@sbcglobal.net; marymay2@sbcglobal.net; dmeli1@comcast.net; ericbmeyers@cs.com; elaine.miles@att.net; chucknpat@comcast.net; rrnels1@aol.com; mnewkom@yahoo.com; hparassr@hotmail.com; kpatcal@yahoo.com; ron859@succeed.net; joanwood@earthlink.net; slruscigno@gmail.com; coldagua01@yahoo.com; usafarm@jps.net; butter2000p@aol.com; chucksmith57@hotmail.com; Ifspeth@sbcglobal.net; stark@otnusa.com; sarb@sarb.com; emu@syix.com; gregor.blackburn@dhs.gov; BillE@eanda.org; kim@floydcommunications.com; Ld1@syix.com;

khoover@sutterbutteflood.org; carlos.j.lazo@usace.army.mil; sminard@mhm-inc.com; almontna@montnafarms.com; duane@theoliveiralawfirm.com; dwpeterson@co.sutter.ca.us; Picker@lincolncrow.com; srice@water.ca.gov; jtwitchell@geiconsultants.com; stephen.m.yuhas@usace.army.mil; Tyler.M.Stalker@usace.army.mil; ronald\_southard@sbcglobal.net; sallyserger@yahoo.com

Subject: Additional deaths in 1955 flood

Additional unreported deaths in the Yuba City 1955 flood by Roberta Fletcher

News reports state that thirty-eight people died in the Yuba City 1955 flood. What has not been reported is that many more lives were lost when the levee broke at Shanghai Bend on the Feather River. Burwell Ullrey, Sutter County Coroner at the time, documented thirty-eight flood-related deaths in Sutter County. The deaths of the men who were working on top of the levee at Shanghai Bend where it broke are not documented and are not included in the official count. This is Sutter County history that has never been made public.

In 1955 there were Mexican farm workers at Shanghai Bend and they died when the levee broke. It may seem hard for some people to believe that the deaths were not publicly reported and documented. But the 1950's were before the Civil Rights Movement and apparently no one in authority made the effort to document the deaths. It was easier at the time to just bury them and move on. We accepted the decisions that those in authority made. I believe there was no "conspiracy". It was just that people didn't talk about it.

### My sources of information include:

Robert Fletcher (my husband) was volunteering on the levee at Shanghai Bend that night along with my father, Irving Pearce. My father worked a little farther down the levee with the English speaking people. Bob worked with the Mexicans because he knew a little Spanish. He said that Oji farms brought two bus-loads of "green card" Mexicans to work on the levee. He and my father left just before the levee broke. My husband always wondered what happened to the Mexicans.

Gabrial Singh's father and uncles were working that night down the levee from the Mexicans. When the levee broke they could hear the screams of the Mexican workers as they were being washed away.

Elaine Miles's father, after the flood, was working under the 5th Street Bridge. There were several bodies and by the way they were dressed he assumed they were Mexicans. They covered them with concrete.

Ben Mueck was a mechanic for Oji farms at the time and he verified the story of the farm workers.

A booklet on the 1955 flood that was written a year later by a person from the LDS church mentions buses and asks the question about who may have died.

Gerald Arnoldy said that the body of a Mexican worker was in a friend's swimming pool.

Jim Kimerer said his grandmother saw dead Mexicans in trees on Carlson Road. They apparently were washed down Gilsizer Slough. I asked him what happened to their bodies and he doesn't know.

I would like for those workers to be remembered for sacrificing their lives trying to keep the Feather River inside the levee. They will probably never be individually identified, but I want people to know the history.

Roberta Fletcher

From: Francis Coats [mailto:fecoats@msn.com]

**Sent:** Tuesday, July 05, 2011 9:25 AM **To:** Norgaard, Ingrid; Matthew G. Davis

Subject: West (right descending bank) Feather River Levee and Sacramento side, Sutter County Levee

project.

Please include me in all notices and disributions under CEQA and NEPA

Francis E. Coats, 3392 Caminito Avenue, Yuba City, CA 95991 (530) 701-6116, fecoats@msn.com

Please figure out and let us know the legal basis for the construction or improvement of levees, on each segment of levee, and include this in the documents.

Please figure out and let us know the extent to which the levee districts are obligated to provide for cross-levee access for private owners and the public; and, the extent to which the levee districts have a right to exclude underlying owners, owners of land on the wet side of the levee, and the public, from being on or crossing the levees.

So far as I know, the levee districts bought right-of-way for levees in the 1880 - 1900 era; and then, a another Valley wide entity bought right-of-way in the 1930's and 1940's.

Particularly the first generation of acquisitions may not be where the levee sits today. Some of these are mere easements, allowing the construction and maintenance of the levee, but not granting the right to exclude other users. Also, though some of the first generation of deeds may appear to grant the whole ownership of the land, the courts may believe that these are still merely easements.

Most of the second generation documents are clearly on their faces merely easements, not authorizing the grantee to exclude anyone else. It seems likely that the larger entity does have real property records that would be of help in figuring out what the rights are relative to the land and the levee.

My experience with Levee District One is that they say they do not have real property records reflecting the acquisition and ownership of levees, although they assume they own the levee and have a right to exclude the public from travelling across or along the levee.

However, they say they have no records, so they really don't have any idea. I identified, say 30 deeds into LD1 between 1870 and 1906, and these seem to correspond to the published county tax maps, particularly Pennngton (1873??) and Punnett (1895). The records are there and accessible, but some one needs to work them up and do the necessary legal research to see what the effects of those documents are.

The county does not tax land under the levee, on the theory that it is close to worthless, so tax records are not much help in figuring out who owns the land the levee sits on.

As part of the planning process, please address the question of who owns the segments of land the levee sit on, on what basis the levee district claims the right to maintain a levee on each segment, to what extent the levee district may have the right to exclude land-owners and members of the public, to what extent it is the burden of the levee district to build and maintain ramps to allow private owners or the public to cross the levee.

I imagine this come out to a series of reference map identifying the location of each tract and cross eferenced to the instrument creating it, with an evaluation of the effect of the document - what rights granted, what rights retained.

Also, a discussion of the legal effect of the documents and general law on whether levee deeds are read

as fee grants or mere easements; who is obligated to maintain ramps providing access across the levee; under what circumstances might the levee district be obligated to construct or maintain a ramp; when may the levee district exclude the underlying owner, owners inside the levee, or the public from crossing the levee.

Also, within human memory, the tops of the levees were open for use apparently as public roads. What happened to rights which might have existed by dedication, grant, or county road action?

Francis E. Coats, 3392 Caminito Avenue, Yuba City, CA 95991 (530) 701-6116, fecoats@msn.com

This would involve both work in the county real property records, and any records held by the levee districts and or the other greater entity that took title to lots of levee land in the 1930s and 1940s. the creation of a map showing the segments of levee right of way acquired and relating them to recorded documents. Evaluation of the documents for legal effect. Legal research to come up with an opinion of the legal effect of the documents.



July 26, 2011

(916) 358-2900 http://www.dfg.ca.gov

Ingrid Norgaard, Project Manager Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

Matt Davis, Environmental Resources Branch Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, CA 95814

Dear Ms. Norgaard and Mr. Davis:

The Department of Fish and Game (DFG) has reviewed the Notices of Preparation (NOPs) and associated materials for the Sutter Basin and Feather River West Levee Projects (Projects) to be prepared pursuant to the California Environmental Quality Act (CEQA). Environmental Impact Statement/Environmental Impact Reports (EIS/EIRs) will be prepared for the Projects by the Sutter Butte Flood Control Agency (SBFCA) and the U.S. Army Corps of Engineers (USACE) to evaluate structural and non-structural flood-risk-management measures and address levee deficiencies in the Feather River's west levee. Because the Projects are being studied in coordination due to similar study areas, purpose, potential improvements, effects, and parties involved, the DFG has prepared this letter to comment on both Projects. The DFG appreciates the opportunity to provide initial comments on the Projects, and thanks SBFCA and USACE for granting the DFG's request for additional time to comment pursuant to CEQA Guidelines Section 15103.

The study area for the Projects is located in Butte and Sutter Counties, and encompasses approximately 285 square miles roughly bounded by the Feather River to the East; Sutter Bypass, Sutter Buttes, Wadsworth Canal to the West; and Cherokee Canal and Thermalito Afterbay to the North (study area). The Projects' purposes include evaluating structural and non-structural flood-risk-management measures including re-operation of existing reservoirs; improvements to existing levees; construction of new levees; and other storage, conveyance, and non-structural options. Flood waters potentially threatening the study area originate from the Feather River watershed and/or the upper Sacramento River watershed above Colusa Weir. The study area is essentially encircled by project levees and the high ground of Sutter Buttes. Geotechnical analysis and historical performance during past floods indicate that levees are at risk of failure due to underseepage and through-levee seepage.

Activities from the Projects may have significant impacts to fisheries, wildlife, habitats (both in natural and restoration areas), and to DFG lands which provide hunting, fishing, and other public use opportunities. The DFG is able to provide the recommendations included below based on the information provided in the NOPs and associated materials, and an understanding of the natural resources in the study area. The DFG would like to emphasize the critical importance of coordination with the DFG during the CEQA and regulatory processes and asks that SBFCA and USACE evaluate the DFG's comments closely to ensure that impacts are avoided, minimized and mitigated pursuant to CEQA and the appropriate regulations and statutes.

# **DFG's Authority**

These initial comments are submitted under the DFG's authority as Trustee Agency with regard to the fish and wildlife of the State of California, designated rare or endangered native plants, game refuges, ecological reserves, and other areas administered by the DFG (CEQA Guidelines § 15386, subd. (a)). In addition, the DFG will likely be a Responsible Agency with regards to the Projects due to its discretionary approval power pursuant to the California Endangered Species Act (CESA) and/or Section 1603 of the Fish and Game Code (CEQA Guidelines § 15381). The DFG is also commenting as a landowner and conservation easement holder within the study area for the Projects.

# **CESA Species**

The DFG has regulatory authority pursuant to CESA over projects that will result in the take of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species. Based upon a preliminary review, the DFG has identified several such species with potential to occur within the study area that may be affected by the Projects. These species include giant garter snake (Thamnophis gigas), bank swallow (Riparia riparia), Swainson's hawk (Buteo swainsoni), and other species listed in the attachment to this letter. Take of species protected pursuant to CESA is prohibited (Fish and Game Code § 2080). The DFG. however, may authorize the take of these species by permit if the conditions set forth in Fish and Game Code Section 2081, subdivisions (b) and (c) are met. (See also Cal. Code Regs., tit. 14, § 783.4). If the Projects could result in the take of any species protected pursuant to CESA, an incidental take permit issued by the DFG should be obtained before the take can occur. If the DFG will issue an incidental take permit, the DFG must rely on the EIS/EIRs as prepared by SBFCA and USACE to prepare and issue its own findings regarding the Projects (CEQA Guidelines §§15096 and 15381). The DFG will use the EIS/EIRs if they adequately address the effects of those project activities which the DFG is required by law to carry out or approve.

If a CESA incidental take permit will be sought from the DFG for the Project(s), the DFG will require the EIS/EIRs to contain a detailed analysis of the take and other potential

<sup>&</sup>lt;sup>1</sup>Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill."

impacts to the species and its habitat, acreage of habitat affected or potentially affected, avoidance and minimization measures that will be implemented, and a detailed description of the mitigation measures that will be performed to reduce impacts to a level of less than significant and fully mitigate the impacts pursuant to CESA.

The DFG may only issue an incidental take permit if it is determined that impacts associated with the authorized take of the species are minimized, fully mitigated, and that adequate funding has been ensured to implement the mitigation measures (Fish and Game Code § 2081(b)(2) and (4)). Because take must be fully mitigated pursuant to CESA, a standard that is higher than the less than significance standard of CEQA. and because funding must be ensured to DFG standards for the minimization and full mitigation measures, the DFG suggests that if take will occur, SBFCA begin to examine and discuss potential strategies to fully mitigate and ensure adequate funding with the DFG now. The EIS/EIRs should include a discussion of the measures that will be required to minimize, fully mitigate and ensure adequate funding pursuant to CESA. The DFG must also determine that issuance of an incidental take permit will not jeopardize the continued existence of a CESA-listed species. The DFG will make this determination based on the best scientific information available and shall include consideration of the species capability to survive and reproduce, including the species known population trends and known threats to the species. The DFG requests that the EIS/EIRs include scientific information sufficient to justify such a determination if necessary.

Regardless of whether take of CESA-listed species is anticipated to occur or not, the EIS/EIRs should provide a comprehensive discussion of all CESA-listed species with a potential to be impacted by the Projects, their habitat, and a discussion of all speciesspecific mitigation measures that will reduce impacts to CESA-listed species and their habitat to below the level of significance. Any activity resulting in loss of habitat, decreased reproductive success, or other negative effects on population levels of species protected pursuant to CESA should be addressed. The DFG requests that sufficient technical data, thresholds of significance, best management practices, and similar information be included in the EIS/EIRs to permit a full assessment of all significant environmental impacts (CEQA Guidelines § 15147). Because the study area for the Projects is large, the DFG requests that the EIS/EIRs carefully examine the cumulative and landscape-level effects to CESA-listed species that may occur as a result of changes over such a broad landscape. General and specific plans, regional or local land management plans, as well as other closely related past, present, and reasonably foreseeable probable future projects, should be analyzed relative to their impacts on plant and animal communities, wildlife habitats and corridor use in the Sacramento Valley (CEQA Guidelines § 15130). The DFG also requests a careful examination of how the Projects may affect CESA-listed species dispersal in connection with the natural and artificial barriers in the study area. This analysis should include a discussion of adjacent habitats outside of the study area that support or could support species protected pursuant to CESA that may be impacted as a result of the Projects.

### Giant Garter Snake

Giant garter snake is designated as threatened pursuant to CESA and occurs throughout the study area. Giant garter snake utilizes habitats associated with waterways and levees that may be directly altered by the Projects. The EIS/EIRs should include a detailed and careful discussion of the potential effects of the Projects on giant garter snake, particularly from any kind of vegetation removal, ground disturbing activities, temporary and permanent loss of habitat, changes in baseline conditions, and other forms of disturbance. The EIS/EIRs should include mitigation measures that will reduce these potential impacts to giant garter snake to below a level of significance. In addition, if take of giant garter snake is expected to occur as a result of the Projects, the EIS/EIRs should include an analysis of appropriate full mitigation measures, including, if necessary, measures to permanently protect and perpetually manage compensatory habitat. The DFG suggests that SBFCA and USACE begin examining locations that would be appropriate for giant garter snake mitigation.

# Bank Swallow

Bank swallow is designated as threatened pursuant to CESA and occurs in the study area. Bank swallow utilizes naturally eroded river banks for nesting. Any loss of bank swallow nesting habitat could be considered a potentially significant impact pursuant to CEQA. The EIS/EIRs should identify all areas of existing and potential bank swallow nesting habitat that has the potential to be affected by the Projects. The EIS/EIRs should identify the Projects' potential impacts to bank swallow, and include mitigation measures that reduce these impacts to below a level of significance.

### Swainson's Hawk

Swainson's hawk is designated as threatened pursuant to CESA and occurs throughout the study area. Swainson's hawk often utilizes trees in riparian areas for nesting and open landscapes for foraging. The DFG is concerned with potential impacts to raptor nesting behavior as a result of the Projects' activities, and potential loss of foraging and nesting habitat. The Projects' activities could potentially result in significant impacts to nesting raptors including nest abandonment, starvation of young, and/or reduced health and vigor of eggs or nestlings that could result in death. The EIS/EIRs should identify the Projects' potential impacts to Swainson's hawk, and include mitigation measures that reduce these impacts to below a level of significance, and fully mitigate them if necessary.

### Chinook Salmon

The Feather River is located adjacent to the eastern border of the study area. The Feather River supports several fish species that utilize the river for immigration, emigration, spawning and/or rearing. These fish species include runs of Chinook salmon (*Oncorhynchus tshawytscha*). Winter-run Chinook salmon is designated as endangered and Spring-run Chinook salmon is designated as threatened pursuant to

CESA. The EIS/EIRs should analyze any potential impacts to these species that may occur as a result of the Projects, and include mitigation measures that reduce these impacts to below a level of significance.

# Threatened and Endangered Plants

The EIS/EIRs should include a full impact assessment for plants that are designated as threatened or endangered pursuant to CESA and have the potential to occur in the study area. Numerous vernal pool endemic plant species that are protected pursuant to CESA are known to occur in the study area. The EIS/EIRs should evaluate, but not limit its evaluation, to impacts to the plant species included in the attachment to this letter. The EIS/EIRs should analyze any potential impacts to CESA-listed species that may occur as a result of the Projects, and include mitigation measures that reduce these impacts to below a level of significance.

# **Other Species Considerations**

The regional setting and baseline habitat conditions are critical to an assessment of environmental impacts of the Projects. Therefore the EIS/EIRs should place special emphasis on describing and identifying the locations of existing resources within the study area that are rare or unique (CEQA Guidelines, § 15125 (a)).

The DFG recommends that appropriate surveys be conducted for CESA-listed and other species using standard protocols at the time of year when the species are both evident and identifiable. Field surveys should be scheduled to coincide with the appropriate breeding or other life history stages of animals, when they are likely to be evident. Full floristic surveys should be conducted for any parts of the study area where ground disturbance will occur or where significant changes such as new inundation will occur. Surveys should be scheduled to coincide with peak flowering periods and/or during periods of phonological development that are necessary to identify the plant species. A list of all plant and animal species encountered should be included with the EIS/EIRs.

In addition to species that are protected pursuant to CESA, the EIS/EIRs should evaluate in a similar manner impacts to species that are protected pursuant to other State or federal statutes or regulations, or that may otherwise be considered rare, endangered, or sensitive. This includes an evaluation of impacts to species protected pursuant to the federal endangered species act (16 U.S.C. § 1531)(ESA), plants that are listed with a California Rare Plant Rank, animals listed as a DFG species of special concern, birds of prey (Fish and Game Code § 3503.5), eagles (16 U.S.C. 668-668c), migratory birds (16 U.S.C. 703-712), species listed in the Fish and Game Code as fully protected (Fish and Game Code §§ 3511, 4700, 5050, and 5515), bird nests and eggs including heron rookeries (Fish and Game Code § 3503), and any species that meets the standard in Section 15380 of the CEQA Guidelines. The DFG suggests that the EIS/EIRs include separate thresholds of significance for each of the different species designations listed above that may be impacted by the Projects. The EIS/EIRs should also consider potentially significant cumulative impacts to other species in a manner similar to that described for CESA-listed species above.

# Lake or Streambed Alteration Agreement

Pursuant to Section 1602(a) of the Fish and Game Code an entity may not substantially divert or obstruct the natural flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake, or deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it may pass into any river, stream, or lake unless the DFG receives written notification beforehand. If the activity may substantially adversely affect an existing fish or wildlife resource then an agreement with the DFG will be required which includes reasonable measures necessary to protect the resource. In general, potentially significant impacts to the environment that should be addressed pursuant to CEQA result whenever a project involves work undertaken in or near a river, stream, or lake that flows at least intermittently through a bed or channel, including ephemeral streams and water courses. Due to the nature of the Projects, the DFG anticipates that a Lake and Streambed Alteration Agreement (LSAA) will be required for the Projects. If DFG will issue an LSAA, the DFG must rely on the EIS/EIRs as prepared by SBFCA and USACE to prepare and issue its own findings regarding the Projects (CEQA Guidelines §15096 and 15381). The DFG will use the EIS/EIRs if they adequately address the effects of those project activities which the DFG is required by law to carry out or approve.

If a LSAA will be sought from the DFG pursuant to Section 1600 et seq. of the Fish and Game Code, the DFG requests that the EIS/EIRs contain specific and detailed descriptions of all fish² and wildlife³ resources that may be substantially adversely affected by any alteration in the bed, channel, bank, natural flow, and the measures necessary to protect them. The EIS/EIRs should delineate and identify seasonally and permanently wetted channels, sloughs, depressions, ponds, etc. that will be filled and/or modified as a result of the Projects. These areas should be quantified by existing habitat type, management strategies and constraints, species presence, and ownership and/or agency responsible for the management and maintenance of the parcel. The DFG requests that the description and protection measures in the EIS/EIRs be supported by scientific information.

The Feather River EIP Preliminary Identification/Design Report (Kleinfelder 2009) states on page 85 Section 5.18.7 in the third mitigation proposal that the backfilling of a pond could be a solution to reducing levee permeability. If this is considered to be an option, the EIS/EIRs should identify the ponds proposed for filling and the measures that will be required to reduce such an impact to below a level of significance.

### **Other Habitat Considerations**

In addition to potential impacts to the bed, channel, or bank of rivers, streams, or lakes, the Projects could also result in potentially significant impacts to associated riparian habitat and wetlands. The DFG recommends that the Projects be designed to avoid

<sup>&</sup>lt;sup>2</sup>Pursuant to Fish and Game Code section 45, "'Fish' means wild fish, mollusks, crustaceans, invertebrates, or amphibians, including in part, spawn, or ova thereof."

<sup>&</sup>lt;sup>3</sup>Pursuant to Fish and Game Code section 711.2(a), "'Wildlife' means and includes all wild animals, birds, plants, fish, amphibians, reptiles, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability."

impacts to wetlands and riparian habitat as much as possible. Mitigation should be provided for unavoidable impacts to wetland and riparian habitat based upon the concept of no net loss of habitat values or acreage.

The EIS/EIRs should identify where any fill material (borrow) will come from, including who owns the property and/or mineral rights for the extraction, who will have management responsibility for borrow areas, and the management purpose of borrow area properties. The EIS/EIRs should quantify the number of old growth riparian trees that may be removed and or impacted by the Projects, and include appropriate mitigation.

The Projects may also contribute to habitat fragmentation and isolation of plant and animal populations. The EIS/EIRs should identify areas where habitat fragmentation or isolation of populations may occur as a result of the Projects, and discuss alternatives or potentially feasible mitigation measures that will avoid or substantially lessen these potential impacts to less than significant levels. Existing wildlife corridors and movement areas should be maintained, and access to undisturbed habitat in adjacent areas, should be provided or maintained. The EIS/EIRs should also analyze project impacts relative to their effects on off-site habitats, and populations. This should include nearby public lands, open space, adjacent natural habitats and riparian ecosystems.

Due to the collective changes to riparian and aquatic ecosystems brought about by agriculture, urbanization, flood risk management and water supply infrastructure, every opportunity to restore and protect existing natural resources should be taken whenever changes in these systems are being contemplated. Potential ecosystem restoration measures include restoration of floodplain function and habitat, and conserving lands with habitat connected to other protected lands. When considering how to mitigate for any potential impacts that could result from the Projects, the DFG encourages SBFCA and USACE to consider broader conservation efforts and goals in the area.

The EIS/EIRs should contain an evaluation of the Projects' consistency with applicable land use plans, such as General Plans, Specific Plans, Watershed Master Plans, and Habitat Conservation Plans, that are established or under development in the study area. The EIS/EIRs should also contain current information regarding any previous reports of sensitive species and habitats including Significant Natural Areas (Section 1930 et seq. of the Fish and Game Code), Significant Ecological Areas, or Environmentally Sensitive Habitat Areas that have been identified near or adjacent to the study area.

### DFG Lands, Restoration Efforts and Public Use

The DFG strives to maintain and enhance hunting, fishing and other appropriate public use opportunities throughout the study area. The DFG owns and manages several wildlife and fishing access areas within the study area including the Feather River Wildlife Area (Nelson Slough, Lake of the Woods, O'Connor Lakes, Abbott Lake, and Shanghai Bend), Oroville Wildlife Area, Sutter Bypass, and Gray Lodge Wildlife Area.

These areas provide recreation opportunities (hunting, fishing, wildlife observation, etc.) and access points for the public. Some of these lands are areas that have been restored (especially along the Feather River), and are areas where creation and preservation of habitat is especially important.

The DFG considers impacts to lands owned or managed by the DFG and to public use opportunities to be potentially significant biological and recreational impacts. The DFG requests that the EIS/EIRs fully address potentially significant impacts to DFG lands and public use and recreation, and include appropriate measures to reduce such impacts to less than significant.

The routes and impact areas of the Projects should be clearly defined in the EIS/EIRs to fully evaluate potentially significant impacts. In Figure 2: "Feather River West Levee Project Study Area", the "Levees Proposed for Improvement" alignment shows the levee route approaching the Feather River and cutting through the southern portion of the Oroville Wildlife Area. The DFG is concerned with possible significant impacts to the Oroville Wildlife Area. The current flood control levee passes to the west of the Oroville Wildlife Area boundary. Any proposed new alignment of the levee system through a Wildlife Area should be discussed with the DFG extensively.

The EIS/EIRs should also identify and quantify the cumulative and other impacts of the Projects on existing restoration efforts, and habitats within inundation zones and floodplains that could potentially be impacted by the Projects.

SBFCA and USACE should work with the DFG to ensure that the Projects are consistent with the current efforts to restore floodplain connectivity and habitat corridors, and do not conflict with or inhibit existing restoration projects (e.g. at O'Connor Lakes, Gray Lodge), Management Plans or the goals of the overall Lower Feather River Corridor Management Strategy.

In addition, the Projects should be planned to avoid effects to existing DFG private lands conservation programs such as The California Waterfowl Habitat Program. This program is one of the few incentive based programs that provide private landowners with technical assistance and financial incentives to manage wetland habitat in a specific way for 10 years, and an easement program where landowners are required to follow a cooperatively developed wetland management plan.

SBFCA and USACE should identify lands subject to conservation easements in the study area and ensure that the Projects are implemented consistent with the conservation easement terms.

#### Other Considerations

The EIS/EIRs should identify clear windows of construction and other measures that will minimize impacts to wildlife as well as the recreating public.

In order to comply with Public Resources Code Section 21081.6, detailed monitoring programs should be developed for all mitigation measures required in the EIS/EIRs

relevant to DFG's jurisdiction. The monitoring programs should include specific criteria to measure effectiveness of mitigation measures, clear timelines for implementation, identification of responsible parties, annual monitoring of restored areas or mitigation lands if applicable, performance criteria for the mitigation measures, and annual monitoring reports submitted to the lead agency and the DFG which include corrective recommendations that shall be implemented in order to ensure that mitigation efforts are successful.

The EIS/EIRs will also be subject to CEQA filing fees pursuant to Fish and Game Code Section 711.4, which must be paid at the time the Notices of Determination for the final EIS/EIRs are filed.

If you have any questions regarding this letter please contact Jeb Bjerke, Environmental Scientist, at jbjerke@dfg.ca.gov or (916) 358-2956.

Sincerely

Kent A. Smith Regional Manager

### Attachment

ec: Laura Whitney

United States Army Corps of Engineers

Tina Bartlett
Jeff Drongensen
Jennifer Navicky
Jeb Bjerke

Department of Fish and Game

# **Attachment**

The DFG requests that the EIS/EIRs include, but not be limited to analyzing potentially significant impacts to the following species:

Scientific Name Common N	
Astragalus tener var. ferrisiae Ferris' milk	-vetch
Atriplex cordulata heartscale	VOIOII
Atriplex minuscula lesser salts	scale
Atriplex subtilis subtle orac	
Balsamorhiza macrolepis var. big-scale b	
macrolepis dans di big doale s	aloumoot
Brasenia schreberi watershield	1
California macrophylla round-leave	
Castilleja rubicundula ssp. rubicundula pink cream	
Centromadia parryi ssp. parryi pappose ta	
Chamaesyce hooveri Hoover's s	
Clarkia biloba ssp. brandegeeae Brandegee	
Delphinium recurvatum recurved la	
Downingia pusilla dwarf down	
Fritillaria pluriflora adobe-lily	
Hibiscus lasiocarpos var. occidentalis   woolly rose	e-mallow
Juncus leiospermus var. ahartii Ahart's dwa	
Juncus leiospermus var. leiospermus Red Bluff d	
Layia septentrionalis Colusa layi	
Legenere limosa legenere	
	nty meadowfoam
Monardella douglasii ssp. venosa veiny mona	
Navarretia leucocephala ssp. bakeri Baker's nav	
Neostapfia colusana Colusa gra	SS
Orcuttia pilosa hairy Orcut	
Orcuttia tenuis slender Orc	
Paronychia ahartii Ahart's par	
	golden sunburst
Sagittaria sanfordii Sanford's a	T
	sco campion
Trichocoronis wrightii var. wrightii Wright's tric	
	ity golden clover
Tuctoria greenei Greene's tu	uctoria
Wolffia brasiliensis Brazilian w	
Animals	
Acipenser medirostris green sturg	geon
Agelaius tricolor tricolored b	lackbird
	iger salamander
Antrozous pallidus pallid bat	
Athene cunicularia burrowing of	owl
Branchinecta lynchi vernal pool	fairy shrimp
Branta hutchinsii leucopareia cackling go	ose

Buteo swainsoni	Swainson's hawk
Charadrius montanus	mountain plover
Circus cyaneus	northern harrier
Coccyzus americanus occidentalis	western yellow-billed cuckoo
Dendroica petechia brewsteri	yellow warbler
Desmocerus californicus dimorphus	Valley elderberry longhorn beetle
Dipodomys californicus eximius	Marysville California kangaroo rat
Elanus leucurus	white-tailed kite
Emys marmorata	western pond turtle
Eumops perotis californicus	western mastiff bat
Grus canadensis tabida	greater sandhill crane
Haliaeetus leucocephalus	bald eagle
Lampetra ayresii	river lamprey
Lanius ludovicianus	loggerhead shrike
Lasiurus blossevillii	western red bat
Laterallus jamaicensis coturniculus	California black rail
Lepidurus packardi	vernal pool tadpole shrimp
Mylopharodon conocephalus	hardhead
Oncorhynchus mykiss irideus	steelhead
Oncorhynchus tshawytscha	chinook salmon
Riparia riparia	bank swallow
Spea hammondii	western spadefoot
Taxidea taxus	American badger
Thamnophis gigas	giant garter snake

----Original Message----

From: David Neubert [mailto:dcneubert@gmail.com]

Sent: Tuesday, July 05, 2011 4:35 PM

To: Davis, Matthew G SPK

Subject: Sutter Basin and Feather River West Levee Project - Scoping Meeting

Comments

Matthew,

The following are my comments on the 28 June Scoping Meeting that I attended in Gridley, CA, in regards to the Sutter Basin and Feather River West Levee Project.

First, let me say that I am encouraged that the Corps and its partners value the input of local citizens in the project area, and are considering ways to optimize both flood safety and riparian ecosystems under the two new projects.

Regarding the presentation given on the 28th, I (along with other citizens I talked with) found it to be rather vague and lacking enough detail for the audience to generate questions from. The opaque nature of the presentation did not help the people understand what the Corps is planning in the project areas, and what the various options are. In the future, it would be better if the Corps (or its consultants) actually presented ideas on the types of activities that are being planned. For example, the Corps could identify areas where levee setbacks may occur, identify areas where riparian habitat can be improved and conserved, identify areas where levees are weak or strong and specific actions that might take place at weak sites to remedy problems.

The format used at the Gridley meeting was probably not worth the time and money invested.

Following the presentation, I spoke with one of the consultants employed by the Corps (or one of its partners). I asked the consultant specifically where levee setbacks may occur on the Feather River West project. He said that there were four possible sites or sites under consideration. One of them (as I recall) was in Butte County near Almond Avenue. A second area identified was at the confluence of the Feather River and the Sutter Bypass (just south of Sacramento Avenue, Sutter County).

As a resident of south Sutter County, I would support any levee setback near the confluence of the Feather River and Sutter Bypass. By creating a wider floodplain in this area, I would think that peak flood levels could be reduced along the Nicolaus Reach. It is my understanding that this is one of the most flood-threatened reaches of the Feather River at the current time. I hope the Corps aggressively researches the development of a levee setback area near the confluence. This land is currently only in agriculture and the Corps could minimize land acquisition costs by simply utilizing a flood easement rather than land purchase if the levee is moved north to widen the flood plan.

I look forward to seeing hydraulic models and your other findings of levee setback options and costs as they are developed.

Regards, David Neubert

Classification: UNCLASSIFIED

Caveats: NONE

CALIFORNIA STATE LANDS COMMISSION 100 Howe Avenue, Suite 100-South Sacramento, CA 95825-8202



June 29, 2011

CURTIS L. FOSSUM, Executive Officer (916) 574-1800 FAX (916) 574-1810 California Relay Service From TDD Phone 1-800-735-2929 from Voice Phone 1-800-735-2922

> Contact Phone: (916) 574-1890 Contact FAX: (916) 574-1885

File Ref: SCH #2011052062

Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street Sacramento, CA 95814

Subject: Notice of Preparation (NOP) for a Joint Environment Impact Report (EIR)/Environmental Impact Statement (EIS) for the Feather River West Levee Project, Sutter and Butte Counties

Dear Ms. Norgaard:

Staff of the California State Lands Commission (CSLC) have reviewed the subject NOP for a joint EIR/EIS for the Feather River West Levee Project (FRWLP or Project), which is being prepared by the U.S. Army Corps of Engineers (USACE) as the federal lead agency under the National Environmental Policy Act (NEPA) (42 United States Code [U.S.C.] § 4321 et seq.) and the Sutter Butte Flood Control Agency (SBFCA) as the state lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code [PRC] § 21000 et seq.).

The FRWLP is being sponsored by the SBFCA and Central Valley Flood Protection Board (CVFPB) as a locally driven flood risk reduction project. USACE has authority through the Rivers and Harbors Act of 1899 (as amended) over modifications to federal flood control project levees, and any such alterations proposed by SBFCA are subject to approval by USACE.

The FRWLP is being studied in close coordination with the Sutter Basin Feasibility Study (SBFS), a separate but related project, because the FRWLP and the SBFS at least partially overlap in their study areas, purpose, potential improvements, potential effects, and involved parties.

The CSLC has prepared these comments as a trustee and responsible agency because of its trust responsibility for projects that could directly or indirectly affect sovereign lands, their accompanying Public Trust resources or uses, and the public easement in navigable waters.

### **CSLC** Jurisdiction

The CSLC has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable rivers, sloughs, lakes, etc. The CSLC has certain residual and review authority for tide and submerged lands legislatively granted in trust to local jurisdictions (PRC § 6301, § 6306). All tide and submerged lands, granted or ungranted, as well as navigable rivers, sloughs, etc., are impressed with the Common Law Public Trust.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes, which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line, except for fill or artificial accretion. On navigable non-tidal waterways, the State holds fee ownership of the bed landward to the ordinary low water mark and a Public Trust easement landward to the ordinary high water mark. Such boundaries may not be readily apparent from present day site inspections.

The location of the proposed Project may involve sovereign land in the Feather River under the jurisdiction of the Commission. However, information submitted in the NOP is insufficient for CSLC staff to determine the extent and location of the Project with respect to sovereign ownership interests of the State. We request that as the Project proceeds, the SBFCA submit additional information (e.g., detailed maps) to enable CLSC staff to determine if any components of the Project will require a lease or permit. We additionally request to be placed on any future distribution mailing list for the Project.

# **Proposed Project**

The SBFCA proposes the FRWLP under the California Department of Water Resources (DWR) Early Implementation Program (EIP) to expeditiously complete flood risk reduction measures in advance of the Sutter Basin Project.

SPFCA is planning the FRWLP to address levee deficiencies in the west levee of the Feather River between Thermolito Afterbay and the Feather River/Sutter Bypass confluence to meet federal, state and local flood protection criteria and goals. Primary deficiencies of the levee include:

- through-seepage;
- under-seepage; and
- embankment instability (overly steepened slopes).

Alternatives considered for addressing levee deficiencies may include measures such as:

- slurry cut-off walls;
- seepage berms;
- · stability berms;
- internal drains:
- relief wells:
- sheet-pile walls;
- slope flattening; and
- potential new levee alignments.

### **Environmental Review**

A thorough Project description should be included in the EIR/EIS in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project description should be as precise as possible in describing the details of all proposed activities (e.g., types of equipment or methods that may be used, maximum area of impact, seasonal work windows, locations for material disposal, etc.), as well as the details of the timing and length of activities. A thorough description will facilitate CSLC staff's determination of the extent and location of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential need for subsequent environmental analysis.

# Biological Resources

- 1. <u>Sensitive Species</u>: SBFCA should conduct queries of the California Department of Fish and Game's (DFG) California Natural Diversity Database (CNDDB) and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. Additionally, SBFCA should consult early in the process with appropriate staff at DFG to identify species of concern. The EIR/EIS should analyze the potential for such species to occur in the Project area and, if impacts to special-status species are found to be significant, identify feasible mitigation measures.
- 2. <u>Invasive Species</u>: One of the major stressors to the Sacramento-San Joaquin River Delta is introduction of non-native species. As the Feather River is a principal tributary of the Sacramento River, the EIR/EIS should consider a plan with a range of alternatives for prevention programs for terrestrial and aquatic invasive species (including quarantine, early detection, and early response) to slow the introduction of invasive species into high-traffic and sensitive areas. In developing these alternatives, the proposed plan should consider using current and proposed aquatic invasive species prevention programs in the area as models. In addition, in light of the recent decline of pelagic organisms and in order to protect at-risk fish species, the EIR/EIS should examine if the objectives of the plan would favor non-native fisheries within the Sacramento and San Joaquin River system and Delta.

3. Construction Noise: The EIR/EIS should evaluate noise and vibration impacts on fish and birds from construction, restoration or flood control activities in the water, on the levees, and for land-side supporting structures. Mitigation measures could include species-specific work windows as defined by DFG, USFWS, and the National Oceanographic and Atmospheric Administration's Fisheries Service (NOAA Fisheries). Again, staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

# Climate Change

A greenhouse gas (GHG) emissions analysis consistent with the California Global Warming Solutions Act (AB 32) and required by section 15064.4 of the State CEQA Guidelines<sup>1</sup> should be included in the EIR/EIS. This analysis should identify a threshold for significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and ultimate build-out of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce or minimize them. The analysis should pay particular attention to the possibility of cumulative impacts of GHG emissions.

### Cultural Resources

- 1. <u>Submerged Resources</u>: The EIR/EIS should evaluate the possibility of submerged cultural resources in the Project area. The CSLC maintains a shipwrecks database, available at http://shipwrecks.slc.ca.gov, that can assist with this analysis. The database includes known and potential vessels located on the State's tide and submerged lands; however, the locations of many shipwrecks remain unknown. Please note that any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant.
- 2. <u>Title to Abandoned Resources</u>: The EIR/EIS should mention that the title to all abandoned shipwrecks, archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the CSLC. Mitigation measures should be developed to address any submerged cultural resources that may be affected by the proposed Project and any unanticipated discoveries during the Project's construction. CSLC staff would like to review the proposed mitigation measures and requests that SBFCA consult with CSLC staff, should any cultural resources be discovered during construction of the proposed Project.

# Hydrology and Water Quality

SBFCA should disclose and analyze the Project's potential to adversely affect water quality. Such impacts are likely to include increased turbidity and sedimentation from

<sup>&</sup>lt;sup>1</sup> The "State CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

construction disturbance, dredging, fill, and other in-water construction work, and potential pollution from worksite spills or mobilization of pollutants from the disturbed soils. For any effects found to be potentially significant, the EIR/EIS should identify feasible mitigation measures that would avoid or lessen such effects.

# Recreation

As public access and recreation on State lands are key concerns of the Public Trust, CSLC staff requests that the EIR/EIS analyze the Project's short-term and long-term impacts on recreation resources, both during construction and for the life of the project. Any significant impacts will require mitigation measures that either minimize or reduce the impacts or otherwise compensate residents and visitors.

# Mitigation and Monitoring

To avoid the improper deferral of mitigation, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project and which may be accomplished in more than one specified way" (State CEQA Guidelines § 15126.4(b)).

It would also be helpful to provide a summary of the mitigation measures relied upon to avoid or reduce the identified impacts to less than significant, in addition to a monitoring program of these actions to ensure compliance and enforceability through permit conditions, agreements or other measures during Project implementation.

As a potential responsible agency, the CSLC may need to rely on this document for the issuance of a lease, therefore, we request that you consider our comments during preparation of the draft EIR/EIS.

If you have any questions concerning environmental review or where to send copies of future FRWLP-related notices and/or environmental documents, please contact Joan Walter, Environmental Scientist, at (916) 574-1310 or by e-mail at <a href="mailto:joan.walter@slc.ca.gov">joan.walter@slc.ca.gov</a>. If you have any questions concerning CSLC leasing jurisdiction, please feel free to contact Ninette Lee, Public Land Manager, at (916) 574-1869.

Sincerely

Cy R. Oggins, Chief

Division of Environmental Planning and Management

cc: Matt Davis, Environmental Resources Branch Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, CA 95814

Office of Planning and Research N. Lee, LMD, CSLC J. Walter, DEPM, CSLC

From: Megan Randall [mailto:mrandall@americanrivers.org]

Sent: Wednesday, June 22, 2011 3:47 PM

**To:** Norgaard, Ingrid; <a href="Matthew.G.Davis@usace.army.mil">Matthew.G.Davis@usace.army.mil</a> **Subject:** Feather River West Levee Project Information

Dear Ingrid and Matt,

I am writing to you in hopes of discussing the Feather River West Levee Project. I was hoping that you might be able to help me answer a couple questions or provide me with some helpful materials before the scoping period ends. American Rivers is interested in submitting comments, and we would like to get all the information possible before doing so.

Specifically, I would like to get some more in-depth information on exactly what is being proposed for the Feather River Levee system. Do you have any additional information or reports on the following that might help me become better informed?

- a. Background information: Reports detailing the current flaws in the levee system. Technical background information identifying specific flaws and the need for improvements.
- b. Details about what is being proposed currently:
  - i. Detailed maps of which levees and regions are identified for repair, etc.
  - ii. Detailed reports on the proposed design for repair. I am aware that the design process isn't expected to be completed until 2012. Do you know how far along the design process is and if there are any reports which would give insight into the most significant elements of the plan to date?
- c. Lastly, are you aware of any information on the project's relationship to expanded urban development in the region? Do you know if there is any literature on proposed development projects, or if there is someone I can contact to get more information on this aspect of the project?

Thanks to both of you for your time and any help you can provide.

Best, Megan Randall From: Megan Randall <a href="mailto:mrandall@americanrivers.org">[mailto:mrandall@americanrivers.org</a>]

**Sent:** Monday, June 27, 2011 3:30 PM

To: Norgaard, Ingrid

Subject: RE: Feather River Levee Scoping Period

Dear Ingrid,

Thanks for your help and insights. I have a couple additional questions.

I am curious as to whether there are any existing maps which identify the location and boundaries of the Reaches outlined by the Preliminary Identification/Design Report. It would be nice to get a visual of the precise location of the proposed improvements.

Also, I am wondering if you (or anyone else) might be able to provide any information as to the relationship between the FRWLP and the Sutter Basin Feasibility Study. Do you know why these two projects were both included in the NOP?

Thanks so much! I really appreciate your time and help.

### -Megan

**From:** Norgaard, Ingrid [mailto:INorgaard@icfi.com]

**Sent:** Monday, June 27, 2011 6:45 AM

**To:** <a href="mailto:admin@sutterbutteflood.org">admin@sutterbutteflood.org</a>; Megan Randall **Subject:** RE: Feather River Levee Scoping Period

Megan, I can see why that title on Attachment 1 is confusing, but the intent of that doc is only to provide additional information related to scoping for the Draft EIS/EIRs under preparation (none have been prepared to date). And to clarify, we are accepting comments through July 8, 2011.

### Thanks, Ingrid

From: SBFCA [mailto:admin@sutterbutteflood.org]

Sent: Friday, June 24, 2011 4:08 PM

**To:** Norgaard, Ingrid; mrandall@americanrivers.org **Subject:** FW: Feather River Levee Scoping Period

#### Hi, Megan;

I've copied Ingrid Norgaard on this email as she will be able to answer your environmental questions below.

#### Ingrid;

Please see the email below re: enviro questions. Could you please review and respond to Megan (copied on this email)?

Thank you! Sarah

**Sutter Butte Flood Control Agency** 

530-755-9859 o

1227 Bridge Street, Suite C Yuba City, CA 95991

<u>admin@sutterbutteflood.org</u> www.SutterButteFlood.org

From: Megan Randall [mailto:mrandall@americanrivers.org]

Sent: Wednesday, June 22, 2011 3:37 PM

To: <a href="mailto:admin@sutterbutteflood.org">admin@sutterbutteflood.org</a>

Subject: RE: Feather River Levee Scoping Period

Dear Sarah,

Thanks for the information. I have a couple additional questions that perhaps you can answer for me.

1. The PDF of the NOP which was provided on the website also includes a document labeled Attachment 1: DRAFT Environmental Impact Statements/Environmental Impact Reports. I found this a bit confusing since the document does not appear to be a comprehensive EIS/EIR and I wasn't aware that the draft EIR/EIS had been released yet. Could you clarify what Attachment 1 is meant to be?

Sorry for the long e-mail. Any help or insight would be very much appreciated!

Thanks for your time, Megan Randall

**From:** SBFCA [mailto:admin@sutterbutteflood.org]

**Sent:** Wednesday, June 22, 2011 2:30 PM

To: Megan Randall

Subject: RE: Feather River Levee Scoping Period

Hi, Megan;

Thanks for your inquiry – and, good timing! Our public scoping meetings are next week; you can find information on our website here: <a href="http://sutterbutteflood.org/index.php/notices">http://sutterbutteflood.org/index.php/news</a> events/events/. I hope this information is helpful to you. Should you have any additional questions, please don't hesitate to email me.

Thanks! Sarah Modeste

# **Sutter Butte Flood Control Agency**

1227 Bridge Street, Suite C Yuba City, CA 95991

<u>admin@sutterbutteflood.org</u> www.SutterButteFlood.org

From: Megan Randall [mailto:mrandall@americanrivers.org]

**Sent:** Tuesday, June 21, 2011 9:51 AM

To: info@sutterbutteflood.org

Subject: Feather River Levee Scoping Period

I wanted to inquire about the Feather River West Levee Rehabilitation Project. I was wondering if the scoping period for this project has closed, or if there is still time to comment.

Thanks for any insights.

Best, Megan Randall From: Megan Randall <a href="mailto:mrandall@americanrivers.org">[mailto:mrandall@americanrivers.org]</a>

**Sent:** Thursday, June 30, 2011 10:40 AM

To: <a href="mailto:admin@sutterbutteflood.org">admin@sutterbutteflood.org</a>

Cc: Norgaard, Ingrid; Matthew.G.Davis@usace.army.mil

Subject: FRWLP Questin

Dear Sarah, Ingrid, and Matthew,

I have one additional question about the FRWLP that perhaps you might be able to help me with.

I have been browsing the Preliminary Problem Identification Report as well as the Preliminary Design Report on the SBFCA website, and I noticed that the levee project identified by these documents is only 27 miles long and runs from Yuba City north to Thermalito Afterbay.

On the website, however, the project maps and the NOP identify the FRWLP as running all the way from Thermalito Afterbay to the Sutter Bypass confluence, a total of 44 miles.

I am just curious as to why the information differs, and how the two projects are related (the levee project from Thermalito after to Yuba City, and then the project from Yuba City to the Sutter Bypass confluence). Will the SBFCA implement both of these projects? Does the approximate \$300 million cost estimate cover improvements for the entire stretch, or just the 27 mile stretch? Is there any other information about the proposed Yuba-Sutter Bypass improvements available that might clarify some of my questions?

Thanks so much for all your help!

Best, Megan

### NATIVE AMERICAN HERITAGE COMMISSION

915 CAPITOL MALL, ROOM 364 SACRAMENTO, CA 95814 (916) 653-4082 (916) 657-5390 - Fax



July 15, 2011

Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

RE: SCH# 2011052062 Sutter Basin Feasibility Study and Feather River West Levee Project; Sutter and Butte Counties.

#### Dear Ms. Norgaard:

The Native American Heritage Commission (NAHC) has reviewed the Notice of Preparation (NOP) referenced above. The California Environmental Quality Act (CEQA) states that any project that causes a substantial adverse change in the significance of an historical resource, which includes archeological resources, is a significant effect requiring the preparation of an EIR (CEQA Guidelines 15064(b)). To comply with this provision the lead agency is required to assess whether the project will have an adverse impact on historical resources within the area of project effect (APE), and if so to mitigate that effect. To adequately assess and mitigate project-related impacts to archaeological resources, the NAHC recommends the following actions:

- ✓ Contact the appropriate regional archaeological Information Center for a record search. The record search will determine:
  - If a part or all of the area of project effect (APE) has been previously surveyed for cultural resources.
  - If any known cultural resources have already been recorded on or adjacent to the APE.
  - If the probability is low, moderate, or high that cultural resources are located in the APE.
  - If a survey is required to determine whether previously unrecorded cultural resources are present.
- If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
  - The final report containing site forms, site significance, and mitigation measurers should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum, and not be made available for public disclosure.
  - The final written report should be submitted within 3 months after work has been completed to the appropriate regional archaeological Information Center.
- ✓ Contact the Native American Heritage Commission for:
  - A Sacred Lands File Check. USGS 7.5 minute quadrangle name, township, range and section required.
  - A list of appropriate Native American contacts for consultation concerning the project site and to assist in the mitigation measures.
     Native American Contacts List attached.
- ✓ Lack of surface evidence of archeological resources does not preclude their subsurface existence.
  - Lead agencies should include in their mitigation plan provisions for the identification and evaluation of accidentally discovered archeological resources, per California Environmental Quality Act (CEQA) §15064.5(f). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American, with knowledge in cultural resources, should monitor all ground-disturbing activities.
  - Lead agencies should include in their mitigation plan provisions for the disposition of recovered artifacts, in consultation with culturally affiliated Native Americans.
  - Lead agencies should include provisions for discovery of Native American human remains in their mitigation plan. Health and Safety Code §7050.5, CEQA §15064.5(e), and Public Resources Code §5097.98 mandates the process to be followed in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery.

Sincerely.

Katy Sanchez
Program Analyst
(916) 653-4040

cc: State Clearinghouse

### **Native American Contact List**

Sutter and Butte Counties July 15, 2011

Berry Creek Rancheria of Maidu Indians

Cultural Resources Rep

#5 Tyme Way Oroville

, CA 95966

gmix@berrycreekrancheria.com

(530) 534-3859

(530) 534-1151 FAX

**Butte Tribal Council** 

Ren Reynolds

1693 Mt. Ida Road Maidu

Oroville

, CA 95966

(530) 589-1571

Mechoopda Indian Tribe of Chico Rancheria

Dennis E. Ramirez, Chairperson

125 Mission Ranch Blvd

Mechoopda Maidu

Tyme Maidu

Chico , CA 95926 Concow

dramirez@mechoopda-nsn.gov

(530) 899-8922 ext 215

(530) 899-8517 - Fax

Mooretown Rancheria of Maidu Indians

Gary Archuleta, Chairperson

#1 Alverda Drive

Maidu KonKow / Concow

Oroville , CA 95966

frontdesk@mooretown.org

(530) 533-3625

(530) 533-3680 Fax

Greenville Rancheria of Maidu Indians

Kyle Self, Chairperson

PO Box 279

Maidu

Greenville

, CA 95947

kself@greenvillerancheria.com

(530) 284-7990

(530) 284-6612 - Fax

Susanville , CA 96130

United Auburn Indian Community of the Auburn Rancheria

David Keyser, Chairperson

10720 Indian Hill Road

Maidu

Auburn

, CA 95603

Miwok

530-883-2390

530-883-2380 - Fax

Maidu Nation

Clara LeCompte

P.O Box 204

Maidu

Maidu Cultural and Development Group

, CA 95947

Lorena Gorbet

Greenville

PO Box 426

Maidu

(530) 284-1601

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for proposed SCH# 2011052062 #Sutter Basin Feasibility Study and Feather River West Levee Project; Sutter and Butte Counties.

### **Native American Contact List**

Sutter and Butte Counties July 15, 2011

KonKow Valley Band of Maidu Patsy Seek, Chairperson

1706 Sweem Street

KonKow / Concow

Oroville

, CA 95965

Maidu

(530) 533-1504

Berry Creek Rancheria of Maidu Indians Jim Edwards, Chairperson

#5 Tyme Way

Tyme Maidu

Maidu

, CA 95966 Oroville gmix@berrycreekrancheria.com

(530) 534-3859

(530) 534-1151 FAX

T si-Akim Maidu Eileen Moon, Vice Chairperson 760 So. Auburn St. Ste 2-C Maidu Grass Valley, CA 95945 (530) 477-0711

Enterprise Rancheria of Maidu Indians Art Angle, Vice Chairperson 3690 Olive Hwy Maidu

Enterprise Rancheria of Maidu Indians

Oroville

, CA 95966

eranch@cncnet.com

(530) 532-9214

(530) 532-1768 FAX

Strawberry Valley Rancheria Cathy Bishop, Chairperson

PO Box 667

Maidu

Marysville , CA 95901

catfrmsac2@yahoo.com

Miwok

916-501-2482

, CA 95966 Oroville eranch@cncnet.com

Glenda Nelson, Chairperson

(530) 532-9214

(530) 532-1768 FAX

2133 Monta Vista Ave

Mooretown Rancheria of Maidu Indians James Sanders, Tribal Administrator

#1 Alverda Drive

Maidu

, CA 95966 Oroville

KonKow/Concow

(530) 533-3625

(530) 533-3680 FAX

United Auburn Indian Community of the Auburn Rancheria Marcos Guerrero. Tribal Preservation Committee

10720 Indian Hill Road

Maidu

Auburn

, CA 95603 Miwok

mquerrero@auburnrancheria.com

530-883-2364

530-883-2320 - Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for proposed SCH# 2011052062 Sutter Basin Feasibility Study and Feather River West Levee Project; Sutter and Butte Counties.

## **Native American Contact List**

**Sutter and Butte Counties** July 15, 2011

Mechoopda Indian Tribe of Chico Rancheria Mike DeSpain, Director - OEPP

125 Mission Ranch Blvd

Mechoopda Maidu

Chico

, CA 95926

Concow mdespain@mechoopda-nsn.gov

(530) 899-8922 ext 219

(530) 899-8517 - Fax

April Wallace Moore

19630 Placer Hills Road

Nisenan - So Maidu

Colfax

, CA 95713

Konkow

530-637-4279

Washoe

United Auburn Indian Community of the Auburn Rancheria Gregory S. Baker, Tribal Administrator 10720 Indian Hill Road Maidu , CA 95603 Miwok Auburn gbaker@auburnrancheria. 530-883-2390

530-883-2380 - Fax

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of the statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code.

This list is only applicable for contacting local Native Americans with regard to cultural resources for proposed SCH# 2011052062 \*Sutter Basin Feasibility Study and Feather River West Levee Project; Sutter and Butte Counties.



Serving Sutter and Yuba Counties

1007 Live Oak Blvd. Suite B-3 Yuba City, CA 95991 (530) 634-7659 FAX (530) 634-7660 www.fragmd.org

David A. Valler, Jr. **Air Pollution Control Officer** 

June 30, 2011

Ingrid Norgaard, Project Manager Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

Matt Davis, Environmental Resources Branch Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, CA 95814

Re: Notice of Preparation of Draft Environmental Impact Statements/Environmental Impact Reports for the Sutter Basin Feasibility Study and Feather River West Levee Project.

Dear Ms. Norgaard and Mr. Davis,

The Feather River Air Quality Management District (District) appreciates the opportunity to review and comment on the above referenced project.

The project site is partially located in Sutter County, which is currently designated as nonattainment for Federal PM<sub>2.5</sub> ambient air quality standards, nonattainment-transitional for State 1-hour and 8-hour ozone standards, and nonattainment for State PM<sub>10</sub> standards. The District would like to make the following recommendations regarding the scope and content of the environmental information for these two projects in regards to air quality and climate change:

### Construction Phase

A project of this type is considered a Type 2 project under the District's CEQA Guidelines (http://www.fraqmd.org/PlanningTools.htm). This size project will likely generate constructionrelated air quality impacts that exceed the District's adopted thresholds of significance. An air quality analysis should be performed to determine the impact of the project. The District recommends the Roadway Construction Emissions Model (Version 6.3.2, July 2009) developed by the Sacramento Metropolitan Air Quality Management District, available at http://www.airquality.org/ceqa/index.shtml. If the impacts are found to be significant, the District recommends the measures listed on Attachment C Best Available Construction Phase Mitigation Measures, and the construction equipment mitigation measure on Attachment E.

Some special considerations for construction phase of this project may include an analysis of the impacts to sensitive receptors located within 1,000 feet of the project site, compliance with state regulations prohibiting the excessive idling of on-road and off-road diesel-fueled vehicles, and ensuring that all portable engines greater than 50 horsepower be registered with the California Air Resources Board or obtain a District permit. For information on obtaining a District permit, please contact Mr. Timothy Mitro, Air Quality Engineer, at (530) 634-7659 ext 208.

## Operational Phase

Any air quality impacts from this project are likely to occur during the construction phase as this is a Type 2 project.

## Greenhouse Gas and Climate Change Impacts

The District recommends the EIR/EIS include a discussion of greenhouse gas emissions and climate change impacts. Currently, the District has not adopted thresholds of significance for GHG emissions. However, the California Air Pollution Control Officers Association (CAPCOA) publication CAPCOA CEQA & Climate Change provides guidance on addressing a project's impact on climate change (<a href="www.capcoa.org">www.capcoa.org</a>). Other resources for addressing Climate Change under CEQA are listed in Chapter 8 of the District's Guidelines (<a href="http://www.fragmd.org/PlanningTools.htm">http://www.fragmd.org/PlanningTools.htm</a>).

## District Rules and Regulations

All projects are subject to District rules and regulations. Some rules and regulations that may apply to this project are:

- Rule 3.0 Visible Emissions
- Rule 3.16 Fugitive Dust Emissions
- Rule 4.1 Permit Requirements

A complete listing of District rules and regulations is available at http://www.arb.ca.gov/drdb/fr/cur.htm.

The project should also submit a Fugitive Dust Control Plan to the District prior to beginning work. The Fugitive Dust Control Plan and supporting documentation are included with this comment letter as Attachments A, B, & D.

If you need further information or assistance, please contact me at (530) 634-7659 x210. Air District staff will be available to assist the project proponent or Lead Agency as needed.

Sincerely,

Sondra Andersson Spaethe

Air Quality Planner

Enclosures: Attachments A, B, C, D & E

File: Chron

## Attachment A: Feather River Air Quality Management District Fugitive Dust Control Plan

This plan, upon signature and submittal to the FRAQMD, will serve as an approved Fugitive Dust Control Plan to be implemented at the designated site. This plan must be submitted by the project proponent and received at the air district prior to start of work.

The approved plan serves as an acknowledgment by the project proponent of their duty to address state and local laws governing fugitive dust emissions and the potential for first offense issuance of a Notice of Violation by the air district where violations are substantiated by District staff. This plan (along with standard mitigation measures for all projects and best available mitigation measures where applicable) shall be made available to the contractors and construction superintendent on the project site.

• Site Location:				
• Project Type (circle all that app	ly): Residential	Commercial	Industrial	Transportation
• List of responsible persons:				
Company:				
Office (name, title, address, pho	one):			
Field (name, title, phone):				
<ul> <li>Projected Start and End Dates: (Day/Month/Year)</li> </ul>	1	- <del>1511 15 7</del>		
Project Proponent:		The state of the s		
	Printed Name		Com	pany/Phone
Signature:		Title:		
By signing this document I acknow local fugitive dust emission laws ar ensure that appropriate materials and dust mitigation measures (Attachme	nd understand that ad instructions are	t it is my respon available to si	nsibility as the employees	ne project proponent to s to implement fugitive
I further acknowledge that it is my of fugitive dust control laws, requir measures are to be implemented at	ements, and avail the site as necess	able mitigation ary to prevent f	techniques, ugitive dust	and that appropriate

Please Submit to: FRAQMD, 1007 Live Oak Blvd. Suite B-3, Yuba City, CA 95991 Attn: Planning Phone: 530-634-7659 x210 FAX: 530-634-7660 Email: sspaethe@fraqmd.org

## Attachment B Feather River Air Quality Management District

## Standard Construction Phase Mitigation Measures for All Projects

- 1. Mandatory: Implement the Fugitive Dust Control Plan
- 2. Construction equipment exhaust emissions shall not exceed FRAQMD Regulation III, Rule 3.0, Visible Emissions limitations (40 percent opacity or Ringelmann 2.0). Operators of vehicles and equipment found to exceed opacity limits shall take action to repair the equipment within 72 hours or remove the equipment from service. Failure to comply may result in a Notice of Violation.
- 3. The primary contractor shall be responsible to ensure that all construction equipment is properly tuned and maintained prior to and for the duration of onsite operation.
- 4. Minimize idling time to 5 minutes saves fuel and reduces emissions. (State idling rule: commercial diesel vehicles- 13 CCR Chapter 10 Section 2485 effective 02/01/2005; off road diesel vehicles- 13 CCR Chapter 9 Article 4.8 Section 2449 effective 05/01/2008)
- 5. Utilize existing power sources (e.g., power poles) or clean fuel generators rather than temporary power generators.
- 6. Develop a traffic plan to minimize traffic flow interference from construction activities. The plan may include advance public notice of routing, use of public transportation, and satellite parking areas with a shuttle service. Schedule operations affecting traffic for off-peak hours. Minimize obstruction of through-traffic lanes. Provide a flag person to guide traffic properly and ensure safety at construction sites.
- 7. Portable engines and portable engine-driven equipment units used at the project work site, with the exception of on-road and off-road motor vehicles, may require California Air Resources Board (ARB) Portable Equipment Registration with the State or a local district permit. The owner/operator shall be responsible for arranging appropriate consultations with the ARB or the District to determine registration and permitting requirements prior to equipment operation at the site.

#### Attachment C

## Feather River Air Quality Management District FUGITIVE DUST CONTROL - BEST AVAILABLE MITIGATION MEASURES

TO BE USED IN ADDITION TO STANDARD CONSTRUCTION PHASE MITIGATION MEASURES.

Sources: FRAQMD Indirect Source Review Guidelines and Best Available Mitigation Measures compiled by the air districts of the Greater Sacramento Region and approved for implementation by the FRAQMD Board of Directors.

All grading operations on a project should be suspended when winds exceed 20 miles per hour or when winds carry dust beyond the property line despite implementation of all feasible dust control measures.

<u>Construction sites shall be watered</u> as directed by the Department of Public Works or Air Quality Management District and as necessary to prevent fugitive dust violations.

An operational water truck should be onsite at all times. Apply water to control dust as needed to prevent visible emissions violations and offsite dust impacts.

Onsite dirt piles or other stockpiled particulate matter should be covered, wind breaks installed, and water and/or soil stabilizers employed to reduce wind blown dust emissions. Incorporate the use of approved nontoxic soil stabilizers according to manufacturer's specifications to all inactive construction areas.

<u>All transfer processes</u> involving a free fall of soil or other particulate matter shall be operated in such a manner as to minimize the free fall distance and fugitive dust emissions.

<u>Apply approved chemical soil stabilizers</u> according to the manufacturers' specifications, to all-inactive construction areas (previously graded areas that remain inactive for 96 hours) including unpaved roads and employee/equipment parking areas.

<u>To prevent track-out</u>, wheel washers should be installed where project vehicles and/or equipment exit onto paved streets from unpaved roads. Vehicles and/or equipment shall be washed prior to each trip. Alternatively, a gravel bed may be installed as appropriate at vehicle/equipment site exit points to effectively remove soil buildup on tires and tracks to prevent/diminish track-out.

<u>Paved streets shall be swept</u> frequently (water sweeper with reclaimed water recommended; wet broom) if soil material has been carried onto adjacent paved, public thoroughfares from the project site.

<u>Provide temporary traffic control</u> as needed during all phases of construction to improve traffic flow, as deemed appropriate by the Department of Public Works and/or Caltrans and to reduce vehicle dust emissions. An effective measure is to enforce vehicle traffic speeds at or below 15 mph.

<u>Reduce traffic speeds</u> on all unpaved surfaces to 15 miles per hour or less and reduce unnecessary vehicle traffic by restricting access. Provide appropriate training, onsite enforcement, and signage.

Reestablish ground cover on the construction site as soon as possible and prior to final occupancy, through seeding and watering.

<u>Disposal by Burning</u>: Open burning is yet another source of fugitive gas and particulate emissions and shall be prohibited at the project site. No open burning of vegetative waste (natural plant growth wastes) or other legal or illegal burn materials (trash, demolition debris, et. al.) may be conducted at the project site. Vegetative wastes should be chipped or delivered to waste to energy facilities (permitted biomass facilities), mulched, composted, or used for firewood. It is unlawful to haul waste materials offsite for disposal by open burning.

\_\_\_\_\_FRAQMD – Effective 09/09/03\_\_\_\_\_

# Attachment D Feather River Air Quality Management District LOCAL AND STATE REGULATIONS APPLICABLE TO FUGITIVE DUST

## I. FRAQMD Rules and Regulations

Note: The following District Rules and Regulations are enforced for each project regardless of lead agency or Board approved project CEQA mitigation requirements.

## FRAQMD RULE 3.0 - VISIBLE EMISSIONS (Adopted 6/91)

As provided by Section 41701 of the California Health and Safety Code, a person shall not discharge into the atmosphere from any single source of emissions whatsoever, any air contaminants for a period or periods aggregating more than three minutes in any one hour which is:

- a. As dark or darker in shade as that designated as No. 2 on the Ringlemen Chart, as published by the United States Bureau of Mines; or
- b. Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in Subsection 'a' above.

*Enforcement:* The District has trained staff capable of performing a Visible Emissions Evaluation (VEE). VEE courses are offered to regulators and the regulated community (for a fee) at regular intervals by staff of the California Air Resources Board.

## FRAOMD RULE 3.16 - FUGITIVE DUST EMISSIONS (Adopted 4/11/94)

## A. PURPOSE

The purpose of this Rule is to reasonably regulate operations which periodically may cause fugitive dust emissions into the atmosphere.

## **B. DEFINITION**

For the purpose of this Rule, the following definitions shall apply:

- B.1 Fugitive Dust: Solid airborne matter emitted from any non-combustion source.
- B.2 Emergency: Any act of God, but only if the owner of the property from which fugitive dust emissions originate establishes for the Feather River Air Quality Management District, by a preponderance of evidence, that he or she took reasonable precautions in light of the relevant facts and circumstances to minimize emissions.
- B.3 Property Line: Adjacent properties which are owned by the same person shall be considered the same property for the purpose of determining the property line.

## C. REQUIREMENTS

A person shall take every reasonable precaution not to cause or allow the emissions of fugitive dust from being airborne beyond the property line from which the emission originates, from any construction, handling or storage activity, or any wrecking, excavation, grading, clearing of land or solid waste disposal operation.

Reasonable precautions shall include, but are not limited to:

C.1 use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, construction of roadways, or the clearing of land; C.2 application of asphalt, oil, water, or suitable chemical on dirt roads, material stockpiles, and other surfaces which can give rise to airborne dusts;

C.3 other means approved by the Air Pollution Control Officer.

### D. EXEMPTIONS

The provisions of this Rule shall not apply to the following:

- D.1 Agricultural Operations
- D.2 Currently unworked land designated as reclaimed for agriculture
- D.3 An Emergency
- D.4 Unpaved roads open to public travel (this inclusion shall not apply to industrial or commercial facilities).

#### II. State Laws

## California Health and Safety Code

**Section 41700**. Except as otherwise provided in Section 41705, no person shall discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public, or which endanger the comfort, repose, health, or safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury or damage to business or property.

**Section 41701**. Except as otherwise provided in Section 41704, or Article 2 (commencing with Section 41800) of this chapter other than Section 41812, or Article 2 (commencing with Section 42350) of Chapter 4, no person shall discharge into the atmosphere from any source whatsoever any air contaminant, other than uncombined water vapor, for a period or periods aggregating more than three minutes in any one hour which is: (a) As dark or darker in shade as that designated as No. 2 on the Ringelmann Chart, as published by the United States Bureau of Mines, or (b) Of such opacity as to obscure an observer's view to a degree equal to or greater than does smoke described in subdivision (a).

## California Vehicle Code

Section 23114 requires: No vehicle shall transport any aggregate material upon a highway unless the material is covered. Exception 23114(e)(4): Vehicles transporting loads of aggregate materials shall not be required to cover their loads if the load, where it contacts the sides, front, and back of the cargo container area, remains six inches from the upper edge of the container area, and if the load does not extend, at its peak, above any part of the upper edge of the cargo container area. For purposes of this section, "aggregate material" means rock fragments, pebbles, sand, dirt, gravel, cobbles, crushed base, asphalt, and other similar materials.

## Attachment E: Reducing ROG, NOx, & PM emissions from off-road diesel powered equipment

This mitigation measure may be used by projects to mitigate emissions of Reactive Organic Gases (ROG), Oxides of Nitrogen (NOx), and/or Particulate Matter (PM). The results of the Construction Mitigation Calculator shall be submitted and approved by the District PRIOR TO BEGINNING WORK.

The proponent shall assemble a comprehensive inventory list (i.e. make, model, engine year, horsepower, emission rates) of all heavy-duty **off-road** (portable and mobile) equipment (50 horsepower and greater) that will be used an aggregate of 40 or more hours for the construction project and apply the following mitigation measure:

The project shall provide a plan for approval by FRAQMD demonstrating that the heavy-duty (equal to or greater than 50 horsepower) **off-road equipment** to be used in the construction project, including owned, leased and subcontractor vehicles, will achieve a project wide fleet-average 5 percent ROG reduction, 20 percent NOx reduction and 45 percent particulate reduction compared to the most recent CARB fleet average at time of construction. A Construction Mitigation Calculator (MS Excel) may be downloaded from the SMAQMD web site to perform the fleet average evaluation <a href="http://www.airquality.org/ceqa/index.shtml">http://www.airquality.org/ceqa/index.shtml</a>.

Acceptable options for reducing emissions may include use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology (Carl Moyer Guidelines), after-treatment products, voluntary offsite mitigation projects, provide funds for air district offsite mitigation projects, and/or other options as they become available. The District should be contacted to discuss alternative measures.



## California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair



11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114 (916) 464-3291 • FAX (916) 464-4645 http://www.waterboards.ca.gov/centralvalley

20 June 2011

Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento. CA 95814 CERTIFIED MAIL 7010 1670 0002 0652 8212

COMMENTS TO THE NOTICE OF PREPARATION OF THE DRAFT ENVIRONMENTAL IMPACT REPORT, SUTTER BASIN FEASIBILITY STUDY AND FEATHER RIVER WEST LEVEE PROJECT, SCH NO.2011052062, SUTTER COUNTY

Pursuant to the State Clearinghouse's 20 May 2011 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Notice of Preparation of the Draft Environmental Impact Report* for the Sutter Basin Feasibility Study and Feather River West Levee Project, located in Sutter County.

Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

### **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water\_issues/programs/stormwater/constpermits.shtml

Sutter Basin Feasibility Study and Feather River West Levee Project SCH No. 2011052062 Sutter County

Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water issues/storm water/municipal permits/

## Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water issues/storm water/industrial general per mits/index.shtml.

## Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916)557-5250.

## Clean Water Act Section 401 Permit - Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. Water Quality Certification must be obtained prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

<sup>&</sup>lt;sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

## Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water\_issues/water\_quality\_certification/

If you have questions regarding these comments, please contact me at (916) 464-4745 or gsparks@waterboards.ca.gov.

Genevieve (Gen) Sparks

Environmental Scientist ·

401 Water Quality Certification Program

almanic m, Lu

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento



# California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair



11020 Sun Center Drive #200, Rancho Cordova, California 95670-6114 (916) 464-3291 • FAX (916) 464-4645 http://www.waterboards.ca.gov/centralvalley

6 July 2011

Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814 CERTIFIED MAIL 7010 3090 0001 4843 2695

COMMENTS TO THE NOTICE OF PREPARATION FOR THE DRAFT ENVIRONMENTAL IMPACT REPORT, SUTTER BASIN FEASIBILITY STUDY PROJECT, SCH NO. 2011052085, SUTTER AND BUTTE COUNTIES

Pursuant to the State Clearinghouse's 22 June 2011 request, the Central Valley Regional Water Quality Control Board (Central Valley Water Board) has reviewed the *Notice of Preparation for the Draft Environmental Impact Report* for the Sutter Basin Feasibility Study Project, located in Sutter and Butte Counties.

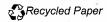
Our agency is delegated with the responsibility of protecting the quality of surface and groundwaters of the state; therefore our comments will address concerns surrounding those issues.

## **Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

http://www.waterboards.ca.gov/water\_issues/programs/stormwater/constpermits.shtml



## Phase I and II Municipal Separate Storm Sewer System (MS4) Permits<sup>1</sup>

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water issues/storm water/municipal permits/

## Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water\_issues/storm\_water/industrial\_general\_per\_mits/index.shtml.

## Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916)557-5250.

## Clean Water Act Section 401 Permit - Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. Water Quality Certification must be obtained prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.

#### Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require

<sup>&</sup>lt;sup>1</sup> Municipal Permits = The Phase I Municipal Separate Storm Water System (MS4) Permit covers medium sized Municipalities (serving between 100,000 and 250,000 people) and large sized municipalities (serving over 250,000 people). The Phase II MS4 provides coverage for small municipalities, including non-traditional Small MS4s, which include military bases, public campuses, prisons and hospitals.

a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

http://www.waterboards.ca.gov/centralvalley/water issues/water quality certification/

If you have questions regarding these comments, please contact me at (916) 464-4745 or gsparks@waterboards.ca.gov.

Genevieve (Gen) Sparks Environmental Scientist

401 Water Quality Certification Program

Generieur Spacks

cc: State Clearinghouse Unit, Governor's Office of Planning and Research, Sacramento



## United States Department of the Interior

## FISH AND WILDLIFE SERVICE

Sacramento Fish and Wildlife Office 2800 Cottage Way, Room W-2605 Sacramento, California 95825-1846



In reply refer to: 81420-2011-TA-0619-01

JUN 30 2011

Mr. Matt Davis Environmental Resources Branch Sacramento District U.S. Army Corps of Engineers 1325 J Street Sacramento, CA 95814

Subject:

Yuba-Sutter Habitat Conservation Plan/Natural Community Conservation Plan,

Yuba and Sutter Counties, California

Dear Mr. Davis:

The U.S. Fish and Wildlife Service (Service) has received your Notice of Preparation of Draft Environmental Impact Statements/Environmental Impact Reports for the Sutter Basin Feasibility Study and Feather River West Levee Project dated May 20, 2011 (ER 11/464). The Service would like to assist you in your planning efforts, so we are providing this notification that Yuba and Sutter Counties are currently engaged in a Habitat Conservation Plan/Natural Community Conservation Plan (HCP/HCCP). The applicants currently are the counties of Yuba and Sutter, the city of Wheatland, the city of Live Oak, and Yuba City. This is a multi-year planning process that was initiated as a result of indirect effects from the Upgrade of State Route 70 project (Service file numbers 1-1-00-F-0224 and 1-1-02-F-0069) and it includes the majority of Yuba and Sutter Counties. We would be happy to provide you with additional information upon your request.



Mr. Matt Davis 2

The Service wishes to thank you for your continued efforts and dedication to the conservation of America's wildlife resources. Please contact Ellen R. McBride or Mike Thomas at (916) 414-6630 if you have questions regarding this response. Please refer to Service file number 81420-2011-TA-0619 in any future correspondence.

Sincerely,

Michael Thomas

Eric Tattersall

Deputy Assistant Field Supervisor

cc:

Ms. Ingrid Norgaard, Sutter Butte Flood Control Agency, Sacramento, CA 95814

Mr. Steve Schoenberg, U.S. Fish and Wildlife Service, Sacramento, CA 95825

Ms. Loretta Sutton, Office of Environmental Policy and Compliance, Washington, DC 20240



## California Regional Water Quality Control Board Central Valley Region

Katherine Hart, Chair



415 Knollcrest Drive, Suite 100, Redding, California 96002 (530) 224-4845 • Fax (530) 224-4857 http://www.waterboards.ca.gov/centralvalley

31 May 2011

Ingrid Norgaard Sutter Butte Flood Control Agency c/o ICF International 630 K Street, Suite 400 Sacramento, CA 95814

## COMMENTS ON THE NOTICE OF PREPARATION FOR PROPOSED SUTTER BASIN FEASIBILITY STUDY & FEATHER RIVER WEST LEVEE PROJECT, BUTTE COUNTY

The Central Valley Regional Water Quality Control Board (Central Valley Water Board) is a responsible agency for this project, as defined by the California Environmental Quality Act (CEQA). On 23 May 2011, we received your request for comments on the Notice of Preparation for the Sutter Basin Feasibility Study & Feather River West Levee Project.

Sutter Butte Flood Control Agency has two efforts presently underway to study flood risk reduction improvements in Sutter and Butte Counties, one known as the Sutter Basin Feasibility Study, sponsored by the U.S. Army Corps of Engineers to determine federal interest in flood risk reduction projects, and one known as the Feather River West Levee Project, sponsored by the Sutter Butte Flood Control Agency as a locally driven flood risk reduction project.

USACE initiated the Sutter Basin project in 2001 and is conducting a feasibility study to evaluate flood damage reduction, ecosystem restoration, and recreation opportunities within the study area. The Central Valley Flood Protection Board and SBFCA, in their roles as non-federal local sponsors, are coordinating with USACE on the feasibility study. USACE, acting as the federal lead agency under NEPA, and SBFCA, acting as the state lead agency under CEQA, have determined that an EIS/EIR will be prepared to describe alternative, potential environmental effects, and mitigation measures.

SBFCA is planning the FRWLP to address levee deficiencies in the west levee of the Feather River from Thermalito Afterbay to the Sutter Bypass confluence to meet federal, state, and local flood protection criteria and goals. In 2010, an assessment district was enacted to provide local funding toward flood management improvements. These funds will be matched with those from the Disaster Preparedness and Flood Prevention Bond Act of 2006. The purpose of the FRWLP would be to construct improvements as quickly as possible in advance of and compatible with the Sutter Basin Feasibility Study.

California	Environmentai	Protection	Agency
CONTRACTOR CONTRACTOR			

Based on our review of the information submitted for the proposed project, we have the following comments:

## Clean Water Act (CWA) Section 401, Water Quality Certification

The Central Valley Water Board has regulatory authority over wetlands and waterways under both the Federal Clean Water Act (CWA) and the California Water Code, Division 7 (CWC). Discharge of dredged or fill material to waters of the United States requires a CWA Section 401 Water Quality Certification from the Central Valley Water Board. Typical activities include any modifications to these waters, such as stream crossings, stream bank modifications, filling of wetlands, etc. 401 Certifications are issued in combination with CWA Section 404 Permits issued by the Army Corps of Engineers. The proposed project must be evaluated for the presence of jurisdictional waters, including wetlands and other waters of the State. Steps must be taken to first avoid and minimize impacts to these waters, and then mitigate for unavoidable impacts. Both the Section 404 Permit and Section 401 Water Quality Certification must be obtained prior to site disturbance.

Isolated wetlands and other waters not covered by the Federal Clean Water Act
Some wetlands and other waters are considered "geographically isolated" from navigable waters and are not within the jurisdiction of the Clean Water Act. (e.g., isolated wetlands, vernal pools, or stream banks above the ordinary high water mark). Discharge of dredged or fill material to these waters may require either individual or general waste discharge requirements from the Central Valley Water Board. If the U.S. Army Corps of Engineers determine that isolated wetlands or other waters exist at the project site, and the project impacts or has potential to impact these non-jurisdictional waters, a Report of Waste Discharge and filing fee must be submitted to the Central Valley Water Board. The Central Valley Water Board will consider the information provided and either issue or waive Waste Discharge Requirements. Failure to obtain waste discharge requirements or a waiver may result in enforcement action.

Any person discharging dredge or fill materials to waters of the State must file a report of waste discharge pursuant to Sections 13376 and 13260 of the CWC. Both the requirements to submit a report of waste discharge and apply for a Water Quality Certification may be met using the same application form, found at:

http://www.waterboards.ca.gov/centralvalley/water\_issues/water\_quality\_certification/wqc\_appl ication.pdf

## General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (CGP)

Construction activity, including demolition, resulting in a land disturbance of one acre or more must obtain coverage under the CGP. The Sutter Basin Feasibility Study & Feather River West Levee Project must be conditioned to implement storm water pollution controls during construction and post-construction as required by the CGP. To apply for coverage under the CGP the property owner must submit Permit Registration Documents electronically prior to construction. Detailed information on the CGP can be found on the State Water Board website: http://www.waterboards.ca.gov/water\_issues/programs/stormwater/gen\_const.shtml

Dewatering Alternative 1: Discharge to Storm Drains or Waters of the United States
A dewatering permit, General Order for Dewatering and Other Low Threat Discharges to
Surface Waters, (Central Valley Water\_Board Order No. R5-2008-0082, adopted
12 June 2008) may be required for pump testing, pipeline dewatering and/or construction
activities. This general NPDES (National Pollutant Discharge Elimination System) permit
covers the discharge to waters of the United States of clean or relatively pollutant-free
wastewater that poses little or no threat to water quality. The following categories are covered
by the dewatering permit: well development water; construction dewatering; pump/well testing;
pipeline/tank pressure testing; pipeline/tank flushing or dewatering; condensate discharges;
water supply system discharges; miscellaneous dewatering/low threat discharges. The
dewatering permit applies only to direct discharges to waters of the United States Failure to
obtain a dewatering permit, when required, may result in enforcement action. An application
form and a copy of the permit are available at this office.

## Dewatering Alternative 2: Discharges to Land

Construction and system test dewatering discharges that are contained on land (i.e., will not enter waters of the United States) are allowed under Central Valley Water\_Board Resolution No. 2003-0003-DWQ provided the following conditions are met: (1) the dewatering discharge is of a quality as good as or better than underlying groundwater; and (2) there is a low risk of nuisance. Examples of dewatering discharges to land include a terminal basin, irrigation (with no return to waters of the United States), and dust control. You may request written confirmation from this office that the waiver is applicable.

If you have any questions or comments regarding this matter please contact me at (530) 224-4784 or by email at szaitz@waterboards.ca.gov.

Scott A. Zaitz, R.E.H.S.

Scott A. Zait

**Environmental Scientist** 

Storm Water & Water Quality Certification Unit

SAZ: wrb/jmtm

cc: Mr. Will Ness, U.S. Army Corp of Engineers, Sacramento Department of Fish and Game, Region 2, Rancho Cordova State Clearing House Number (2011052062), Sacramento State Water Resources Control Board, Sacramento

U:\Clerical\Storm\_water\SZaitz\2011\CEQA Comment (Sutter Basin Feasibility Study & Feather River West Levee Project).doc